

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
)
 vs.) No. 08 CR 276
)
 WILLIAM COZZI) Honorable Blanche Manning
)

**DEFENDANT'S MEMORANDUM OF LAW
IN SUPPORT OF MOTION FOR A TAINT HEARING, MOTION
FOR A VINDICTIVE PROSECUTION HEARING, MOTION FOR
DISCOVERY, MOTION TO SUPPRESS AND MOTION TO DISMISS**

BACKGROUND

On August 2, 2005, one Randle Miles created a disturbance in the vicinity of 5300 W. North Avenue. In the process, Miles suffered stab wounds. Rather than immediately seek medical assistance, Miles resorted to self-medication: a bottle of gin. An ambulance was summoned to the scene. While waiting for the ambulance, Miles consumed the spirits he had just purchased. By the time the ambulance arrived, Miles was inebriated. Chicago Fire Department Paramedics transported Miles to Norwegian American Hospital in Chicago, Illinois. *In re the Matter of Charges Filed Against P.O. William J. Cozzi*, 06 PB 2604, July 10, 2007 (“Exhibit A”), testimony of George Bedon, 25 – 31.

In the meantime, Defendant Cozzi, a decorated, Chicago police officer assigned to the 25th District, was dispatched to investigate a stabbing incident at 5309 W. North Avenue. Cozzi arrived at the scene, but was unable to locate a stab victim. As a result of a radio transmission, Cozzi was rerouted to Norwegian American Hospital. *See* Office of Emergency Management and Communication (OEMC) Tape Transcription, August 2, 2005 (“Exhibit B”).

Miles was drunk, combative and abusive with paramedics and hospital personnel. Cozzi arrived at the hospital and found Miles causing a commotion in the emergency room. Miles was combative with hospital security guards. Cozzi placed Miles under arrest. *See Exhibit A*, testimony of Vicente Sebastian at 46-50 and Evelyn Estrada at 69-75.

Cozzi's alleged interactions with Miles on August 2, 2005 were recorded on hospital security cameras, and led the Cook County State's Attorneys Office to seek and obtain Cozzi's felony indictment. On December 28, 2005, the Cook County Grand Jury returned a 17-count indictment against Cozzi charging him, *inter alia*, with aggravated battery and official misconduct. *People v. Cozzi*, 06 CR 764-01, GJ-366, Indictment returned December 28, 2005 ("Exhibit C").

The Chicago Police Department's Office of Professional Standards ("OPS") also conducted an investigation. Pursuant to that investigation, Cozzi was compelled to give statements to an OPS officer on September 14, 20, and 21, 2005. "Administrative Proceeding Rights (Statutory)" forms ("Group Exhibit D").

On May 10, 2007, Cozzi pled guilty in the Circuit Court of Cook County to a reduced (misdemeanor) battery charge. The Honorable Michael Brown sentenced Cozzi to 18 months probation with conditions that he complete anger management classes and pay court fees. *People v. Cozzi*, 06 CR 764-01, Certified Copy of Conviction / Disposition ("Exhibit E").

The Superintendent of the Chicago Police Department filed charges seeking to separate Cozzi from the police department. Cozzi, however, desired to return to the police force, and resisted the discharge quest. *In re the Matter of Charges Filed Against*

P.O. William J. Cozzi, 06 PB 2604 (CR No. 307992), filed April 3, 2006 (See “Exhibit F”).

On July 10, 2007 and August 17, 2007, a Chicago Police Board (“police board”) Hearing Officer presided over public hearings on the Superintendent’s complaint seeking Cozzi’s separation from the police department. Represented by the Corporation Counsel’s office, the Superintendent called Cozzi as an adverse witness. (Contained in redacted portions of Exhibit A; see also www.chicagojustice.org/foi/documents/Cozzi-HearingTranscripts.pdf.)

On July 10, 2007, the assistant corporation counsel asked Cozzi a series of questions about his compelled statements to the OPS. The questioning related to Cozzi’s compelled statements about the incident at issue in this indictment. (Contained in redacted portions of Exhibit A; see also www.chicagojustice.org/foi/documents/Cozzi-HearingTranscripts.pdf.)

Transcripts of the police board hearing -- including Cozzi’s testimony and his testimony about his OPS statements -- are in the public domain and available to the public. Indeed, transcripts of the police board hearing are available on the Internet. See www.chicagojustice.org/foi/documents/Cozzi-HearingTranscripts.pdf.

On October 18, 2007, the police board entered a 6-2 decision refusing to discharge Cozzi. The police board ordered Cozzi suspended for a period of two years (from April 4, 2006 until April 3, 2008). Cozzi planned on returning to police

department employment on April 3, 2008.¹ *In re the Matter of Charges Filed Against P.O. William J. Cozzi*, 06 PB 2604, Decision entered October 18, 2007; Exhibit F.

The *Chicago Sun Times* obtained the hospital surveillance videotape through a Freedom of Information request. Cozzi's case became a political issue in the 2008 primary race for Cook County State's Attorney. Rossi, Rosalind. "Taped beating a campaign issue: Candidate says opponent backed reducing the charge, but she denies it." *Chicago Sun Times*, January 22, 2008 ("Exhibit G.").

An FBI agent named Jodi Weis was scheduled to become the Superintendent of the Chicago Police Department effective February 1, 2008. Armed with the hospital surveillance tape, the media questioned Weis about Cozzi in January 2008. Weis denounced Cozzi, expressed unhappiness with police board's decision not to terminate Cozzi and promised to thoroughly review the facts. A police spokesperson was quoted as saying that Weis had requested a debriefing and planned to take a "hard, close look" at the Cozzi case. Main, Frank. "Another black eye: Cop caught on tape beating man in wheelchair could be back on the beat in April. Now, Chicago's new top cop says he will take a 'hard, close look' at the case." *Chicago Sun Times*, January 21, 2008 ("Exhibit H.").

Unsatisfied with the punishment meted out by the police board and the Criminal Division of the Circuit County of Cook County, Weis referred the matter to the FBI. Rozas, Angela. "Beating in wheelchair by Chicago cop leads to federal indictment." *Chicago Tribune*, April 4, 2008 ("Exhibit I.").

¹ The Superintendent filed a complaint for administrative review of the police board's action with respect to Cozzi. As of the time of this filing, that complaint was still pending in the Circuit Court of Cook County. *Starks v. Cozzi*, 07 CH 34649.

On April 2, 2008, the government sought and obtained a one-count federal indictment against Cozzi for a civil rights violation. Needless to say, Cozzi did not return to the police department's employment on April 3, 2008.

**I. THIS CASE SHOULD BE SET DOWN FOR A TAINT HEARING
RELATIVE TO ANY USE OF COZZI'S GARRITY-PROTECTED
STATEMENTS**

A. The Fifth Amendment to the United States Constitution provides in pertinent part, “No person *** shall be compelled in any criminal case to be a witness against himself.” This constitutional provision applies to compelled, incriminating, testimonial communications. E.g., *United States v. Hubbell*, 530 U.S. 27, 35 (2000). The protections of the privilege against self-incrimination are not limited “compelled testimony that is used against the defendant in the trial itself.” *Id.* at 37. Rather, the coverage of the privilege against self-incrimination “encompasses compelled statements that lead to the discovery of incriminating evidence even though the statements themselves are not incriminating and are not introduced into evidence.” *Id.* “The privilege afforded not only extends to answers that would in themselves support a conviction under a federal criminal statute but likewise embraces those which would furnish a link in the chain of evidence needed to prosecute the claimant for a federal crime.” *Hoffman v. United States*, 341 U.S. 479, 486 (1951). Compelled testimony that is not in itself incriminating but may lead to incriminating evidence falls within the scope of the privilege. *Doe v. United States*, 487 U.S. 201, 208 n. 6 (1988). The Fifth Amendment prohibits the prosecution from using incriminating information derived directly or indirectly from compelled testimony. *Hubbell*, 530 U.S. at 38; *Kastigar v. United States*, 406 U.S. 441 (1972).

Over forty years ago, the United States Supreme Court in *Garrity v. New Jersey*, 385 U.S. 493 (1967), had the opportunity to discuss the privilege against self-incrimination in a case involving statements compelled from police officers. In *Garrity*, the Supreme Court of New Jersey commissioned the New Jersey Attorney General to conduct a special investigation into the fixing of traffic tickets. Under threat of termination from their police employment, police officers were compelled to answer questions regarding the ticket-fixing scheme. The officers were later indicted, and their statements were used against them at a criminal trial over objection.

The issue reached the United States Supreme Court, which observed that “policemen … are not regulated to a watered-down version of constitutional rights.” *Id.* at 500. That is, a police officer's invocation of the privilege against self-incrimination cannot be met with the response of employment termination. See also *Lefkowitz v. Cunningham*, 431 U.S. 801, 805 (1977). As stated in *Gardner v. Broderick*, 392 U.S. 273, 277 (1968), a public employee cannot not constitutionally be given the “Hobson's choice between self-incrimination and forfeiting [their] means of livelihood.” The *Garrity* Court thus held that officers' statements, “obtained under threat of removal from office” could not be used against the officers in a subsequent criminal proceeding.

The protections of *Garrity* have been described as “self-executing immunity.” *Wiley v. Mayor and City Council of Baltimore*, 48 F.3d 773, 778 (4th Cir. 1995) (Powell, retired U.S. Sup. Ct. J.); see also *Hester v. Milledgeville*, 777 F.2d 1492, (11th Cir. 1985); *Gulden v. McCorkle*, 680 F.2d 1070, 1074 (5th Cir. 1982). As stated in *Aguilera v. Baca*, 394 F.Supp.2d 1203, 1219-20 (C.D. Ca. 2005):

Where the government compels a witness to testify against herself without officially granting the witness immunity, the witness is nevertheless shielded; the government may not use her testimony or any evidence derived from it in any subsequent criminal proceeding. See *Garrity v. New Jersey*, 385 U.S. 493, 500, 87 S.Ct. 616, 17 L.Ed.2d 562 (1967). This immunity arises automatically and is co-extensive with the use and derivative use immunity mandated by *Kastigar*.

* * *

This is ... so-called *Garrity* immunity ... automatically attaches to compelled testimony.

See also *In re Federal Grand Jury Proceedings*, 975 F.2d 1488, 1490 (11th Cir. 1992) (“Immunity under *Garrity* prevents any statements made in the course of the internal investigation from being used against the officers in subsequent criminal proceedings.”).

It is well-established that a grant of immunity must be co-extensive with the right to remain silent. *Kastigar*, 406 U.S. at 448-49, 459-61. For this reason, the prosecution is wholly precluded from making any direct use, or derivative use, of compelled testimony. See, e.g., *Gardner*, 392 U.S. at 278. There is a “total prohibition on use.” *Kastigar*, 406 U.S. at 460. This “provides a comprehensive safeguard, barring the use of compelled testimony as an ‘investigatory lead,’ and also barring the use of any evidence obtained by focusing investigation on a witness as a result of his compelled disclosures.” *Id.*; see also *Braswell v. United States*, 487 U.S. 99 (1988). Proscribed use may also traverse into the non-evidentiary realm, as use of compelled testimony to develop leads, shape testimony, refresh recollection or influence prosecutorial strategy simply does not leave the declarant “in substantially the same position as if the [s/he] had claimed the Fifth Amendment privilege.” *Id.* at 462; see *United States v. North* (“*North I*”), 910 F.2d 843, 861 (D.C. Cir. 1990), *modified on reh'g*, 920 F.2d 940 (*per curiam*) (“*North II*”) (“*Kastigar* does not prohibit simply ‘a whole lot of use,’ or ‘excessive use,’ or ‘primary

use' of compelled testimony. It prohibits 'any use,' direct or indirect.") (emphasis original); see also *United States v. Ponds*, 454 F.3d 313, (D.C. Cir. 2006).

The scope *Garrity* immunity stands on the same plane as the immunity accorded under the federal statutory law, 18 U.S.C. § 6002. The court in *United States v. Vangates*, 287 F.3d 1315, 1321 (11th Cir. 2002), captured this point:

The state, of course, can compel a public employee to answer questions in a formal or informal proceeding by granting that employee immunity from future criminal prosecution based on the answers given. See 18 U.S.C. § 6002; *Kastigar*, 406 U.S. at 462, 92 S.Ct. at 1666. Such immunity is the equivalent of the protection afforded an officer under *Garrity*, and is referred to as "use immunity." See *United States v. Veal*, 153 F.3d 1233, 1241 n. 7 (11th Cir.1998); *Hester*, 777 F.2d at 1496.

Once the defendant has established that he made compelled immunized statements under *Garrity*, the burden shifts to the government to prove a legitimate, independent source for its evidence. See, e.g., *United States v. Daniels*, 281 F.3d 168, 180-81 (5th Cir. 2002). As stated in *Kastigar*, "One raising a claim under this statute need only show that he testified under a grant of immunity in order to shift to the government the heavy burden of proving that all of the evidence it proposes to use was derived from legitimate independent sources." 406 U.S. at 461-62; see also *Murphy v. Waterfront Commission*, 378 U.S. 52, 79 n. 18 (1964) ("Once a defendant demonstrates that he has testified, under a state grant of immunity, to matters related to the federal prosecution, the federal authorities have the burden of showing that their evidence is not tainted by establishing that they had an independent, legitimate source for the disputed evidence."). "This burden of proof ... is not limited to a negation of taint; rather, it imposes on the prosecution the affirmative duty to prove that the evidence it proposes to use is derived from a legitimate source wholly independent of the compelled testimony." *Kastigar*, 406

U.S. at 460. Furthermore, the “burden of disproving use cannot … be shifted onto the defendant, nor can the defendant be required to assume the burden of going forward with evidence that puts in issue the question of use.” *North II*, 920 F.2d at 942.

When the government elects to prosecute a previously immunized witness, a pretrial adversarial hearing is the common method of determining whether the government can prove whether all its evidence was obtained from sources independent of the compelled testimony. *North II*, 920 F.2d at 944; *North I*, 910 F.2d at 872. The hearing must be comprehensive. As stated in *North I*:

[T]he District Court must hold a full *Kastigar* hearing that will inquire into the content as well as the sources of the grand jury and trial witnesses' testimony. That inquiry must proceed witness-by-witness; if necessary, it will proceed line-by-line and item-by-item. For each grand jury and trial witness, the prosecution must show by a preponderance of the evidence that no use whatsoever was made of any of the immunized testimony either by the witness or by the Office of Independent Counsel in questioning the witness. This burden may be met by establishing that the witness was never exposed to North's immunized testimony, or that the allegedly tainted testimony contains no evidence not “canned” by the prosecution before such exposure occurred. Unless the District Court can make express findings that the government has carried this heavy burden as to the content of all of the testimony of each witness, that testimony cannot survive the *Kastigar* test. We remind the prosecution that the *Kastigar* burden is “heavy” not because of the evidentiary standard, but because of the constitutional standard: the government has to meet its proof only by a preponderance of the evidence, but any failure to meet that standard must result in exclusion of the testimony.

Id. at 872-73.

Finally, prior to the United States Supreme Court's decision in *Hubbell* the circuits had split on the issue of whether non-evidentiary use of immunized testimony violates the Fifth Amendment. See *North I*, 910 F.2d at 856-60. *North I* observed that non-evidentiary potentially includes “assistance in focusing the investigation, deciding to initiate prosecution, refusing to plea bargain, interpreting evidence, planning cross-

examination, and otherwise generally planning trial strategy.” *Id.* at 857 (quotations and citations omitted). *Hubbell* put to rest the notion that only evidentiary uses of immunized testimony violate the Fifth Amendment:

Kastigar requires that respondent's motion to dismiss the indictment on immunity grounds be granted unless the Government proves that the evidence it used in obtaining the indictment and proposed to use at trial was derived from legitimate sources “wholly independent” of the testimonial aspect of respondent's immunized conduct in assembling and producing the documents described in the subpoena. The Government, however, does not claim that it could make such a showing. Rather, it contends that its prosecution of respondent must be considered proper unless someone—presumably respondent—shows that “there is some substantial relation between the compelled testimonial communications implicit in the act of production (as opposed to the act of production standing alone) and some aspect of the information used in the investigation or the evidence presented at trial.” Brief for United States 9. We could not accept this submission without repudiating the basis for our conclusion in *Kastigar* that the statutory guarantee of use and derivative-use immunity is as broad as the constitutional privilege itself. This we are not prepared to do.

530 U.S. at 45-46.

B. In this case, Cozzi has made a threshold showing that he previously made statements protected by immunity. More specifically, Cozzi was compelled to give statements to the OPS on September 14, 20, and 21, 2005. See Group Exhibit D. Furthermore, he was called as an adverse witness by the Corporation Counsel at the police board hearing on July 10, 2007. What's more, Cozzi's compelled statements were actually used at the police board hearing on July 10, 2007. See Exhibit A (testimony is contained within the redacted portion); see also www.chicagojustice.org/foi/documents/Cozzi-HearingTranscripts.pdf. As noted above, testimony from the police board hearing is in the public domain, and is even available on the internet.

Given that the government has elected to prosecute Cozzi after he made immunized statements, the burden shifts to the government to prove that each item of evidence used before the grand jury and to be used at trial was obtained from sources wholly independent of Cozzi's compelled testimony. Any attempt by the government to discharge this burden should come at a pretrial, adversarial hearing.

The hearing should also address whether any non-evidentiary uses of Cozzi's compelled statements have occurred. On the particular circumstances of this case, Cozzi notes that non-evidentiary uses would include Superintendent Weis's review of the Cozzi case and decision to refer this matter for Federal prosecution. Exposure to Cozzi's OPS statements or the police board record would constitute use of compelled statements.

Cozzi acknowledges that the discovery material provided to him by the government contains so-called "*Garrity* redactions." This, however, is insufficient to discharge the government's heavy burden, for it does not answer whether any evidentiary or non-evidentiary uses of Cozzi's compelled statements have been or will be made. Moreover, Cozzi is entitled to have his Fifth Amendment claim resolved at an adversarial hearing in which he is afforded the right of cross-examination. In short, the Fifth Amendment point must be resolved by a judicial officer after an evidentiary hearing, rather than on the basis of the government's representations about discovery.

Finally, in anticipation of the hearing, Cozzi respectfully moves this Honorable Court to require the government to provide Cozzi with all discovery relating to any efforts to disprove taint. Such discovery should include, but is not limited to:

- i. All grand jury transcripts;
- ii. All witness statements or summaries of witness statements;

- iii. All correspondence, memoranda, notes, documents, reports and e-mails etc. relating to Superintendent Weis's review of Cozzi's case;
- iv. The prosecution memo;
- v. All correspondence, memoranda, notes, documents, reports and e-mails etc. relating to the referral of this case; and
- vi. All correspondence, memoranda, notes, documents, reports and e-mails transmitted to the Federal Government by any State authority, including the Cook County State's Attorneys Office, the Chicago Police Department (including, but not limited to the OPS and the Superintendent's Office), and the police board.

II. THIS CASE SHOULD BE SET DOWN FOR A VINDICATIVE PROSECUTION HEARING

“To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort.” *Bordenkircher v. Hayes*, 434 U.S. 357, 363 (1978); *see also United States v. Goodwin*, 457 U.S. 368, 384 (1982) (“defendant in an appropriate case might prove objectively that the prosecutor's charging decision was motivated by a desire to punish him for doing something that the law plainly allowed him to do”); *United States v. Falcon*, 347 F.3d 1000, 1004 (7th Cir. 2003) (“A vindictive prosecution claim arises when the government pursues prosecution in retaliation for the exercise of a protected statutory or constitutional right.”); *see generally United States v. Segal*, 495 F.3d 826, 832-33 (7th Cir. 2007); *United States v. Jarrett*, 447 F.3d 520 (7th Cir. 2006); *United States v. Bullis*, 77 F.3d 1553, 1558 (7th Cir. 1996); *United States v. Monsoor*, 77 F.3d 1031, 1034 (7th Cir. 1996). A court should grant an evidentiary hearing when the defendant has offered “sufficient evidence to raise a reasonable doubt that the government acted properly.” *Falcon*, 347 F.3d at 1004.

In this case, the government did not seek an indictment against Cozzi until after he exercised his State law labor rights and resisted separation from the Chicago Police Department. Indeed, the government sought and obtained an indictment the day before Cozzi suspension period ended! District Court Document, 1 (“Exhibit J.”). Moreover, the Chicago Police Superintendent, who referred this case to Federal authorities, publicly expressed dissatisfaction with the Cozzi's return to the police department. Main, Frank. “Not sure ‘if I was going to live or die’: Shackled to wheelchair, hit by officer.” *Chicago Sun Times*, January 23, 2008 (“Exhibit K.”).

Under these circumstances, there is no escaping the conclusion that the indictment in this case was brought in retaliation for Cozzi having exercised his rights under Illinois labor law. See *United States v. Napue*, 834 F.2d 1311, 1330 (7th Cir. 1987) (“[T]he extent to which the government had obtained its evidence prior to the defendant’s assertion of some right is one of the key indicia scrutinized by the courts when confronted with a claim of vindictive prosecution.”). At this juncture, Cozzi has proffered sufficient evidence of vindictive prosecution so as to require an evidentiary hearing on this issue.

III. FULL FAITH AND CREDIT PRINCIPLES BAR THIS FEDERAL PROSECUTION

The State of Illinois has previously prosecuted and convicted Cozzi for the very same underlying facts at issue in the present federal indictment. See Exhibits C and E. To a layman, this federal prosecution would smack of double jeopardy. But Cozzi recognizes that the legal fiction known as the “dual sovereignty doctrine,” *e.g., Abbate v. United States*, 359 U.S. 189 (1959), *Bartkus v. Illinois*, 359 U.S. 121 (1959), generally forecloses an objection to the federal charges based upon the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution. Nonetheless, dismissal of the present indictment is warranted on another constitutionally based theory – full faith and credit – which to date has not been addressed by the Supreme Court.

The United States Constitution contains a Full Faith and Credit Clause: “Full Faith and Credit shall be given in each State to the ... judicial Proceedings of every other State. And the Congress may by general laws prescribe the Manner in which such ... Proceedings shall be proved and the Effect thereof.” U.S. CONST. art. IV § 1. Although the constitutional text does not address the federal government's recognizing state judgments, Congress has acted in the area. Title 28, United States Code, section 1738, provides in pertinent part: “[J]udicial proceedings ... shall have the same full faith and credit in every court within the United States ... as they have by law or usage of the courts of such State ... from which they are taken.”

Applying the literal terms of this statute, this federal prosecution of Cozzi should be barred. Illinois double jeopardy law and usage would preclude Illinois from re-prosecuting Cozzi for his conduct in relation to Miles on August 2, 2005. By 28 U.S.C. § 1738, the United States is required to give the same full faith and credit to the Illinois

judgment.² A federal prosecution, where the underlying facts have already been prosecuted to judgment by a State within the Union, violates the full faith and credit statute, to say nothing of comity and *res judicata* interests, and the *Petite* policy, see *Petite v. United States*, 361 U.S. 529 (1960), and *Rinaldi v. United States*, 434 U.S. 22 (1977). See Note, *Heath v. Alabama: Contravention of Double Jeopardy and Full Faith and Credit Principles*, 17 Loy. L. J. 721 (1986); but see *Turley v. Wyrick*, 554 F.2d 840, 842 (8th Cir. 1977).

Respectfully submitted,

/s/ Terence P. Gillespie

TERENCE P. GILLESPIE
 WILLIAM R. SULLIVAN
 GENSON & GILLESPIE
 53 W. Jackson Suite 1420
 Chicago, IL 60604
 (312) 726-9015

² The Supreme Court has applied full faith and credit concepts in the criminal context. See *Allen v. McCurry*, 449 U.S. 90 (1980) (full faith and credit statute precluded plaintiff in a 1983 action from relitigating the constitutionality of a search and seizure where a state court already had resolved the issue in a criminal pretrial suppression hearing); *Williams v. North Carolina*, 317 U.S. 287 (1942) (defendant's bigamy convictions reversed; Full Faith and Credit Clause required North Carolina to give preclusive effect to Nevada's divorce decrees).

CERTIFICATE OF SERVICE

I hereby certify Defendant's foregoing Defendant's Memorandum of Law in Support of Motion for a Taint Hearing, Motion for a Vindictive Prosecution Hearing, Motion for Discovery, Motion to Suppress and Motion to Dismiss was served on June 2, 2008, in accordance with Fed.R.Crim.P. 49, Fed.R.Civ.P.5, LR 5.5, and the General Order on Electronic Case Filing (ECF) pursuant to the District Court's system as to ECF Filers.

/s/ Terence P. Gillespie
TERENCE P. GILLESPIE
Attorney for Defendant, William Cozzi

TERENCE P. GILLESPIE
WILLIAM R. SULLIVAN
GENSON & GILLESPIE
53 W. Jackson Blvd., Suite 1420
Chicago, Illinois 60604
(312) 726-9015

1 BEFORE THE POLICE BOARD
2 OF THE CITY OF CHICAGO

ORIGINAL

3 IN THE MATTER OF CHARGES)
4 FILED AGAINST) Case No. 06-2604
5 P.O. WILLIAM J. COZZI.)

6 VIDEOTAPED REPORT OF PROCEEDINGS had at
7 the status in the above-entitled matter before
8 THOMAS JOHNSON, Hearing Officer, at 30 North
9 LaSalle Street, Suite 1240, Chicago, Illinois,
10 on July 10, 2007, at the hour of 10:00 a.m.

11 APPEARANCES:

12 CITY OF CHICAGO
13 DEPARTMENT OF LAW
14 LABOR DIVISION
15 BY: MS. SAIRA J. ALIKHAN
16 30 North LaSalle Street, Suite 1020
17 Chicago, Illinois 60602

18 on behalf of the Superintendent;

19 MR. WILLIAM N. FAHY
20 53 West Jackson, Suite 1650
21 Chicago, Illinois 60604

22 on behalf of the Respondent.

23 POLICE BOARD OF THE CITY OF CHICAGO
24 MR. MAX CAPRIONI

A-1 LEGAL VIDEO,
SCOT ZIARKO

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* * * * *

1 HEARING OFFICER JOHNSON: All right.
2 We're calling the case of Police Officer
3 William J. Cozzi, 06-2604. And let me ask at
4 the outset, Officer Cozzi, whether you
5 acknowledge receipt of a copy of the charges at
6 least five days prior to today's date.

7 OFFICER COZZI: Yes, sir.

8 HEARING OFFICER JOHNSON: And do you
9 waive reading of the charges and enter a plea
10 of not guilty to each and every charge?

11 OFFICER COZZI: Yes, sir.

12 HEARING OFFICER JOHNSON: Okay. Let
13 me also tell you at the outset that if and only
14 if the Police Board finds you guilty of any
15 charge, then it will look at your complimentary
16 and disciplinary history. Your lawyer should
17 have a copy of that.

18 If that complimentary and
19 disciplinary history is incorrect in any
20 respect, then let me know either through
21 counsel or through your testimony before the
22 case is over, okay?

23 OFFICER COZZI: Yes, sir.

24 HEARING OFFICER JOHNSON: All right.

1 Any preliminary motions or stipulations?

2 MS. ALIKHAN: I don't have any.

3 HEARING OFFICER JOHNSON: Okay. And
4 I've already asked the people in the room
5 whether they're going to be witnesses. They
6 say they are not so --

7 MR. FAHY: That would be my only
8 motion is to exclude witnesses.

9 HEARING OFFICER JOHNSON: Okay. And
10 that would be allowed.

11 All right. Does the City wish to
12 make an opening statement?

13 MS. ALIKHAN: Yes. Members of the
14 Board, Mr. Hearing Officer, Opposing Counsel,
15 my name is Saria Alikhan and I represent the
16 Superintendent in the matter of charges against
17 Officer William Cozzi.

18 On August 2nd, 2005 Officer Cozzi
19 responded to a call from the Office of
20 Emergency Management Center. The call informed
21 Officer Cozzi of a stabbing that occurred at
22 5309 West North Avenue.

23 When Mr. Cozzi arrived on the
24 scene, he learned that the stabbing victim, now

1 known as Randall Miles, had been transported to
2 Norwegian American Hospital.

3 When Officer Cozzi arrived at the
4 hospital, he entered into the lobby section of
5 the emergency room. While there, he saw a
6 nurse attempting to treat Mr. Randall. You
7 will learn that Mr. Miles -- pardon me.
8 Mr. Miles.

9 You will learn that Mr. Miles was
10 loud and uncooperative while being treated at
11 Norwegian American Hospital. You will hear
12 throughout the hearing that Mr. Miles was in no
13 way physically threatening. You will hear that
14 at some point Officer Cozzi placed Mr. Miles
15 under arrest.

16 You will see video of the
17 incident, and the video and testimony will show
18 that while Mr. Randall was handcuffed in a
19 wheelchair, and while his feet were shackled to
20 that wheelchair, Officer Cozzi struck Mr. Miles
21 about the face and chest numerous times.

22 The evidence will show that
23 Officer Cozzi struck Mr. Miles about the face
24 and chest with an unauthorized weapon, that

1 being a blackjack. The evidence will show that
2 Mr. Miles was restrained the whole time that he
3 was being hit by Mr. Cozzi. The evidence will
4 show that the actions of Officer Cozzi were in
5 no way justified, nor were they reasonable.

6 You will also learn that
7 subsequent to the incident, Officer Cozzi
8 filled out various official documents
9 concerning the incident. These documents
10 include a general case report, an arrest
11 report, and a tactical response report.

12 The evidence will show that
13 Officer Cozzi included false and inaccurate
14 information in those documents. The evidence
15 will show that Officer Cozzi fabricated those
16 facts to justify the degree of force he used.

17 As a result of this conduct,
18 Mr. Cozzi or Officer Cozzi has been charged
19 with various violations of the Police rules and
20 regulations, that being Rule 1 entitled
21 Violation of Any Law or Ordinance. Because of
22 Officer Cozzi's actions on or about August 2nd,
23 2005 at Norwegian American Hospital, Officer
24 Cozzi committed the offense of aggravated

1 battery in that he intentionally and knowingly
2 without legal justification caused bodily harm
3 to Randall Miles by striking Mr. Miles about
4 the head or body with a blackjack in violation
5 of 720 ILCS 5/12-4 C1.

6 You will learn that Officer Cozzi
7 on August 2nd, 2005 committed the offense of
8 aggravated battery in that he intentionally or
9 knowingly without legal justification caused
10 bodily harm to Randall Miles by striking
11 Mr. Miles about the head in a public way on
12 public property or public place of
13 accommodation in violation of 720 ILCS 5/12-4
14 C8.

15 You will learn that Mr. Cozzi --
16 Officer Cozzi, pardon me, on August 2nd, 2005
17 committed the offense of battery in that he
18 intentionally or knowingly without legal
19 justification caused bodily harm to Randall
20 Miles by striking him about the head in
21 violation of 720 ILCS 5/12-3A1.

22 You will learn that on August 2nd,
23 2005 Officer Cozzi committed the offense of
24 battery in that he intentionally or knowingly

1 without legal justification made physical
2 contact of an insulting or provoking nature
3 with Randall Miles by striking Mr. Miles about
4 the head or body in violation of 720 ILCS,
5 5/12-3A2.

6 You will learn that Officer Cozzi
7 violated Rule 2 of the Police rules and
8 regulations which is any action or conduct
9 which impedes the Department's efforts to
10 achieve its policy or goals or brings discredit
11 upon the Department. Officer Cozzi did this on
12 August 2nd, 2005 by striking Randall Miles
13 about the head or body with a blackjack.

14 You will also hear that Officer
15 Cozzi violated Rule 2 in that while on duty he
16 was in possession of an unauthorized weapon not
17 prescribed by the Chicago Police Department.

18 You will learn that Officer Cozzi
19 violated Rule 2 in that he generated one or
20 more reports containing false information
21 concerning his arrest of Randall Miles.

22 Officer Cozzi's conduct, you will
23 learn, also violated Rule 6 of the Police rules
24 and regulations in that his conduct resulted in

1 disobedience of an order or directive, whether
2 written or oral.

3 He did this on August 2nd, 2005 by
4 being in possession of a weapon not prescribed
5 by the Chicago Police Department in violation
6 of General Order 98-10-03, Paragraph 2(g) and
7 3(c).

8 You will learn that Officer
9 Cozzi's conduct is in violation of Police rules
10 and regulations, Rule 8 specifically, in that
11 his conduct was disrespect -- resulted in
12 disrespect to or maltreatment of any person
13 while on or off duty.

14 Officer Cozzi's conduct on
15 August 2nd, 2005 of striking Randall Miles in
16 the head with a blackjack or flat sap is one
17 instance in which a Rule 8 violation can be
18 found.

19 You will learn that Officer Cozzi
20 violated Rule 9 in that he engaged in
21 unjustified verbal or physical altercation with
22 any person by on August 2nd, 2005 striking
23 Randall Miles about the head or body with the
24 blackjack or flat sap.

At the conclusion of this case,
the Superintendent asks this Board to find
Officer Cozzi in violation of all rules and to
separate Officer Cozzi from the Chicago Police
Department.

12 HEARING OFFICER JOHNSON: Okay. Thank
13 you. Respondent wish to make an opening?

14 MR. FAHY: Yes. I'll be brief. Good
15 morning, Mr. Johnson, members of the Board
16 also.

24 The incident you're going to hear

1 about was a complete aberration for Officer
2 Cozzi. I do expect that the evidence is going
3 to show that Officer Cozzi did commit some
4 rules violations. And he truly regrets some of
5 the actions that he took with regards to this
6 incident, and he will testify and try to
7 explain as best as he could or as best that he
8 can why he did what he did.

9 And essentially, the reason for
10 this hearing today is we do not agree that what
11 happened here warrants the sanction of
12 termination from the Department. It was a
13 serious lapse in judgment. An incident that
14 took a matter of a couple of minutes in what
15 has otherwise been a stellar 15-year police
16 career. We're going to ask that you consider
17 that entire career when making your decision.

18 He is remorseful for what he did.
19 And at the conclusion of all the evidence,
20 we're going to ask that the Board impose a
21 suspension rather than terminating Officer
22 Cozzi from his position. Thank you.

23 HEARING OFFICER JOHNSON: Okay. Thank
24 you very much. All right. City wish to call

REDACTED

PP 12-21

REDACTED

17 City wish to call its next witness?

18 MS. ALIKHAN: Yes. City would like to
19 call Ericka Garduno.

20 HEARING OFFICER JOHNSON: You want to
21 take a seat, and there's a microphone right
22 here. If you can pinch this onto your shirt.
23 Okay.

24 MS. ALIKHAN: We're actually going to

1 call George Bedon.

2 HEARING OFFICER JOHNSON: Okay. You
3 want to swear the witness.

4 (The witness was duly sworn.)

5 GEORGE BEDON,

6 called as a witness herein, having been first
7 duly sworn, was examined and testified as
8 follows:

9 DIRECT EXAMINATION

10 BY MS. ALIKHAN:

11 Q. Please state and spell your name for
12 the record.

13 A. First name is George. Last name is
14 Bedon, B as in boy, E, D as in dog, O-N.

15 Q. Are you employed, Mr. Bedon?

16 A. Yes, I am.

17 Q. Where are you employed?

18 A. Chicago Fire Department.

19 Q. And how long have you worked for the
20 Chicago Fire Department?

21 A. Till this date, 12 years.

22 Q. 12 years. What is your position at
23 the Chicago Fire Department?

24 A. Paramedic in charge.

1 Q. And how long have you been paramedic
2 in charge?

3 A. Almost nine years.

4 Q. And describe your duties as paramedic
5 in charge.

6 A. I am in charge of my partner, who was
7 the paramedic. I'm in charge of the patient in
8 the back. I assume all responsibilities
9 throughout the whole day, journal-wise,
10 paperwork. Everything comes down on me as the
11 officer for that day.

12 Q. Okay. So you said you're in charge of
13 the patient in back. Are you referring to an
14 ambulance?

15 A. Yes.

16 Q. Now, Mr. Pedon, do you recall an
17 incident that occurred on August 2nd, 2005 at
18 Norwegian American Hospital?

19 A. Yes.

20 Q. Okay. And prior to Norwegian American
21 Hospital, where were you before that incident?

22 A. In quarters.

23 Q. You were in court?

24 A. In quarters. In --

1 HEARING OFFICER JOHNSON: In quarters?

2 THE WITNESS: Rephrase the question.

3 I mean, we had -- we responded to a call.

4 BY MS. ALIKHAN:

5 Q. Okay. Yeah, let me take you from
6 there.

7 A. Yeah, take me from there.

8 Q. Okay. Where you said you responded to
9 a call, can you describe what that call was
10 for?

11 A. We were in quarters. The tones went
12 off. The call was for a stabbing.

13 Q. The call was for a stabbing. And
14 where did you respond?

15 A. Somewhere on North Avenue. I don't
16 have my run sheet in front of me

17 Q. What happened when you got to North
18 Avenue?

19 A. We confronted -- we met with a patient
20 that told us he got stabbed by his girlfriend.
21 And we asked him where he got stabbed, and he
22 pointed to his arm. And it wasn't a stabbing.
23 It was more like a slash.

24 Q. Okay. And what happened after that?

1 A. We asked him to come to the ambulance,
2 and he was very rude and obnoxious and
3 belligerent with us.

4 Q. When you say rude and obnoxious, what
5 do you mean?

6 A. He was swearing. He didn't believe
7 this could happen, you know, that night from
8 his girlfriend, and he wanted to go back up.
9 And we said we got to go. You got stabbed.
10 Let's go.

11 Q. Okay. So did he get into the
12 ambulance at any point?

13 A. It took a while. It took about maybe
14 about 15, 20 minutes to get him inside there.

15 Q. How did you get him in the ambulance?

16 A. We had to persuade him, coerce him a
17 little bit.

18 Q. Okay. When he got into the ambulance,
19 what happened?

20 A. He was kind of wild. Like I said, he
21 was belligerent towards us and my partner. And
22 we just kind of calmed him down a little bit,
23 and then said get you to the hospital, get you
24 stitched up, and do whatever you want after

1 Q. And who did he physically threaten
2 you?

3 A. Mostly it was just verbally abuse.

4 Q. So it was verbal abuse?

5 A. Just verbal abuse. The F word.

6 Q. Okay. Did he ever lunge at you, swing
7 at you?

8 A. Negative.

9 Q. If a patient is physically threatening
10 in the sense that they lunge or swing at you,
11 what is the protocol for a paramedic to do?

12 A. Well, in my line of job, we try to
13 anticipate if we're going to have a violent
14 patient or not. And what we do is either -- if
15 we feel like we're going to be tying this guy
16 up, we'll end up calling reinforcements, either
17 our engine, or we'll call and get it for CPD,
18 and we'll just stand by.

19 Q. Did you call for reinforcement in this
20 instance?

21 A. No. I think we handled it by
22 ourselves pretty well.

23 Q. Do paramedics have restraints or any
24 type of --

1 A. Yes, we do.

2 Q. And what kind of restraints?

3 A. We have soft -- soft or leather
4 restraints.

5 Q. Okay. And were they used in this
6 instance?

7 A. Negative.

8 MS. ALIKHAN: Okay. I have no further
9 questions for this witness.

10 HEARING OFFICER JOHNSON: Any cross?

11 MR. FAHY: Yes, please.

12 CROSS-EXAMINATION

13 BY MR. FAHY:

14 Q. Sir, when you first met the patient,
15 Mr. Miles, you described him being very
16 uncooperative, correct?

17 A. Yes.

18 Q. That was with both you and your
19 partner?

20 A. Yes.

21 Q. In addition to that, could you tell
22 whether or not he appeared to be intoxicated to
23 you?

24 A. He admitted to drinking.

1 Q. Okay. In addition to admitting that
2 he had been drinking, based on your
3 observations could you tell he was under the
4 influence of some type of substance?

5 A. Yes. The smell.

6 Q. Now, in addition to yelling names at
7 you and being uncooperative, it did take you
8 several minutes to get him into the ambulance,
9 correct?

10 A. Yes, it did.

11 Q. And the reason for that is because he
12 was uncooperative with you?

13 A. Yes, he was.

14 Q. And you did testify on direct
15 examination that at some point you did feel
16 physically threatened by him?

17 A. Well, we do -- we felt -- we feel that
18 we always go with our sixth sense. And you
19 know, we have to make sure that we can back off
20 or either call for help. In the beginning we
21 were like that, you know. We felt like, you
22 know, we might have to just call for backup.
23 And we tamed him, and then we just get him in.
24 It took a while to get him in.

1 Q. Did you -- did you at one point while
2 you were on the scene call for a police assist
3 because he was so uncooperative?

4 A. Negative. Usually when it's a
5 stabbing, CPD responds.

6 Q. Pardon me?

7 A. Usually on a stabbing CPD responds.
8 Chicago Police always responds on a stabbing, a
9 gunshot. I never call for a backup because
10 usually we expect them to be there before us
11 actually.

12 Q. So you -- did you speak with an
13 Investigator Lyons from the Chicago Police
14 Department Office of Professional Standards
15 after this incident?

16 A. I think I did.

17 Q. Okay.

18 A. And again, this is two years ago,
19 so...

20 Q. No, I understand. And do you remember
21 speaking with her on September 9th, 2005?

22 A. Again, it was two years ago.

23 Q. Do you remember giving a statement to
24 that investigator?

1 A. I gave some type of statement, but I
2 don't remember to who.

3 MR. FAHY: If I may have a moment.

4 (Brief Pause)

5 MR. FAHY: May I approach?

6 HEARING OFFICER JOHNSON: Yeah.

7 | BY MR. FAHY:

8 Q. Sir, I'm showing you what's been
9 marked as Respondent's Exhibit Number 1 for
10 identification. Do you recognize what that is?

11 A. A statement.

12 Q. A statement by whom?

A. According to this, it was given by me.

14 Q. Okay. And does your signature appear
15 on that statement?

16 A. YEP.

17 Q. And is that the statement that you
18 gave to Investigator Lyons on September 9th,
19 2005 relative to this incident?

20 A. If -- yes.

21 Q. And did you read that statement before
22 you had signed it?

23 A. Yes

24 Q. I'm just going to ask you, calling

1 your attention to Page 2 of the statement on
2 the top paragraph. In that statement -- I'm
3 going to ask you if you could read that
4 paragraph, actually.

5 A. The top one?

6 Q. Yes. The top paragraph of Page 2.

7 A. In the back, with Miles after he was
8 placed inside --

9 Q. No, I'm sorry. If you could read it
10 to yourself.

11 A. Oh, I thought you said read it --

12 Q. I'm sorry.

13 (Brief Pause)

14 THE WITNESS: Okay.

15 BY MR. FAHY:

16 Q. Does that refresh your memory as to
17 whether or not you called for a police assist
18 while you were on the scene?

19 A. According to that, it says we did call
20 for police. But again, the incident was two
21 years ago, so...

22 Q. Okay. So as you sit here today, you
23 don't know if you remember calling for an
24 assist?

1 A. Exactly.

2 Q. But on September 9th of 2005 you did
3 tell the investigator that you had called for
4 an assist, correct?

5 A. Yes. According to that, yes.

6 Q. And that's because Miles was so
7 uncooperative, correct?

8 A. Yes. And belligerent, according to
9 that piece of paper.

10 Q. And when you say an assist, you
11 specifically said a police assist?

12 A. Yeah, because there was nobody there.

13 Q. Now, when you arrived at the hospital,
14 you again had problems with Mr. Miles, correct?

15 A. Yes, we did.

16 Q. He refused to get out of the
17 ambulance.

18 A. Yes, he did.

19 Q. Again, he was yelling and being
20 uncooperative with you?

21 A. Yes, he was.

22 Q. And that's when you were assisted by
23 other security agents at the hospital, correct?

24 A. Yes. There was one when we opened the

1 door, she heard the yelling, and she came to
2 our aid.

3 MR. FAHY: I have no further
4 questions.

5 HEARING OFFICER JOHNSON: Any
6 redirect?

7 MS. ALIKHAN: I have no redirect.

8 HEARING OFFICER JOHNSON: Okay. So if
9 you can unclip your mike. Thanks for coming.
10 Appreciate it.

11 (Witness Excused.)

12 (The witness was duly sworn.)

13 ERIKA GARDUNO,
14 called as a witness herein, having been first
15 duly sworn, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MS. ALIKHAN:

19 Q. Please state and spell your name for
20 the record.

21 A. Erika Garduno, last name
22 G-A-R-D-U-N-O.

23 Q. Okay. And Ms. Garduno, are you
24 employed?

1 A. Yes, ma'am.

2 Q. Where are you employed?

3 A. Chicago Fire Department, Ambulance 48.

4 Q. What is your position there?

5 A. I'm a paramedic.

6 Q. How long have you been a paramedic?

7 A. With the City?

8 Q. Yes.

9 A. With the City, seven years.

10 Q. On August 2nd, 2005 were you called
11 out to West North Avenue?

12 A. Yes, ma'am.

13 Q. What was the reason?

14 A. I believe it was a battery.

15 Q. And what happened when you arrived?

16 A. On the -- at the corner of the
17 address -- excuse me. At the corner of the
18 address -- I don't -- I don't remember
19 specifically the address right now, but I know
20 we came out -- off of North Avenue. There was
21 argument going on on the second floor.

22 The patient finally came out to
23 the doorstep of our ambulance, and he seemed to
24 have been battered. Some bloodstains

1 throughout his body, like face and I believe
2 chest and arms, just bloodstains.

3 At that point we didn't know where
4 the injury had been occurred. So it took us a
5 little convincing to let him come into the
6 ambulance or ask him to come into the
7 ambulance. Finally after we convinced him, we
8 had him in the -- on the bench.

9 Q. Okay.

10 A. He was agitated, and that's the reason
11 why it took us that long to convince him.

12 Q. Well, let's back up a second. You
13 said we. Who are you referring to as we?

14 A. My partner and I.

15 Q. Who is your partner?

16 A. George Pedon at that time.

17 Q. Okay. And you stated the patient. Do
18 you know the patient's name?

19 A. No, to be honest with you.

20 Q. Can you describe the patient?

21 A. I just know he was a tall
22 African-American male.

23 Q. Around what age, do you know,
24 approximation?

1 A. Maybe late 40's, early 50's.

2 Q. So you stated that you tried to get
3 him into the ambulance?

4 A. Correct.

5 Q. Okay. And please describe that.

6 A. Just since he needed a medical
7 assistance from the bloodstains, that indicated
8 to us that he needed some care. And of course
9 since we were called onto the scene, we made
10 the assumption that he was a patient so we
11 needed to transport.

12 So convincing him by asking him to
13 come to the ambulance so we can transport him
14 to the hospital -- nearest hospital for medical
15 care, he was belligerent, a little agitated,
16 saying -- and the specifics I do not remember.
17 The context of the conversation that he was --
18 or the story that he was saying, like the
19 reason why he was upset.

20 So anyway, he was referring to the
21 person upstairs, I believe, that he had had the
22 argument with. So he was referring to that,
23 and he was saying no one's going to take me
24 anywhere. I'm fine. Just let me go.

1 And finally after we convinced him
2 to come into the ambulance, he somewhat calmed
3 down, but he was still agitated in the back.

4 Q. By belligerent and agitated, what
5 specifically do you mean by that as far as
6 conduct?

7 A. Well, agitated only because he didn't
8 want us to take care of him. And he said at
9 one point: You white people, you don't treat
10 me. You let me go. And belligerent, just
11 using profanity, that type of belligerent.

12 Finally my partner explained to
13 him that we weren't white people, that we were
14 Hispanic, and that we were there to help him
15 out and take care of him. At that point he
16 calmed down, and we took him to the hospital.

17 Q. At any point did he physically
18 threaten you?

19 A. I don't remember, to be honest with
20 you.

21 Q. Okay. Do you remember --

22 A. Wait. I believe what we were trying
23 to convince him that it was -- we had called
24 for police backup, so police and I -- it still

1 took a while to -- to have police backup. I
2 don't think we even got police backup at the
3 scene. What else?

4 Q. Who called for the police backup?

5 A. I believe my partner did.

6 Q. And do you know the reason?

7 A. Just because he was a little hard to
8 convince to calm down and to care for.

9 Q. In what instance would you call for
10 police backup?

11 A. Any time that we are threatened
12 physically --

13 Q. Okay.

14 A. -- by any patient.

15 Q. Were you threatened physically by a
16 patient?

17 A. I believe, if we had asked for police
18 backup I -- yes.

19 Q. But you can't remember specifically --

20 A. No, not specifics, no.

21 Q. While in the ambulance was the patient
22 restrained in any manner?

23 A. No.

24 Q. Why is that?

1 A. Because we finally had convinced him
2 to calm down.

3 Q. When you got to the hospital what
4 happened?

5 A. I went and get a wheelchair to
6 transport the patient from the ambulance to the
7 ER for -- to continue with the medical care.

8 Q. Okay. Was there any incident when he
9 was taken out of the ambulance?

10 A. Yeah. He stepped out after I -- I
11 arrived to the side of the ambulance or the
12 back of the ambulance with the wheelchair. He
13 stepped out, he sat in the am -- you know, on
14 the wheelchair, and I transported him to the
15 ER.

16 Q. Right. I guess my question is was he
17 cooperative while exiting the ambulance?

18 A. Was he cooperative in the ambulance?
19 Yes.

20 Q. While exiting the ambulance?

21 A. Yes.

22 Q. He was?

23 A. Yes.

24 Q. Okay. And at that point you had

1 turned him over to the hospital --

2 A. Correct.

3 Q. -- for care?

4 A. We transferred care to the hospital.

5 MS. ALIKHAN: Okay. I have no further
6 questions at this point.

7 HEARING OFFICER JOHNSON: Cross.

8 CROSS-EXAMINATION

9 BY MR. FAHY:

10 Q. Ma'am, you testified that -- on your
11 Direct Examination that the reason why you
12 would call for Chicago Police backup is when
13 you're physically threatened by a patient,
14 correct?

15 A. Correct.

16 Q. Okay. A Chicago Police backup was
17 called in this particular instance, correct?

18 A. I believe so, yes.

19 Q. Okay. You just don't remember --

20 A. I know that they never arrived to the
21 scene.

22 Q. Okay.

23 A. I do remember -- I believe we had
24 requested for police backup.

1 Q. Okay. And that's because of the
2 behavior of Mr. Miles, correct?

3 A. Correct.

4 Q. And in addition to being drunk -- or
5 belligerent, did you also make observations as
6 to whether or not he was intoxicated?

7 A. Yes.

8 Q. Was it pretty obvious to you that he
9 was --

10 A. Yes.

11 Q. -- intoxicated based on your
12 experience?

13 A. Yes.

14 Q. Now, you mentioned at the hospital
15 when you got there, did you leave the ambulance
16 to go get the wheelchair?

17 A. Correct.

18 Q. Okay. So there was a time that your
19 partner was alone?

20 A. My partner was -- yeah, my partner was
21 always in the back with him.

22 Q. Okay. So with regards to Mr. Miles'
23 behavior at the hospital, did you see him when
24 he was refusing to get out of the ambulance?

1 A. Did I -- no. Getting out of the
2 ambulance --

3 MS. ALIKHAN: Objection. There's --

4 THE WITNESS: No.

5 MS. ALIKHAN: -- no facts in evidence
6 that indicate -- she didn't testify he
7 refused --

8 HEARING OFFICER JOHNSON: Well, I
9 think that question could be did she observe
10 him as he was being -- coming out of the
11 ambulance, or was she doing something else.

12 MR. FAHY: I'll recast the question.

13 BY MR. FAHY:

14 Q. Did you see him being brought out of
15 the ambulance?

16 A. Well, yeah. I was the one that
17 transported him from --

18 Q. How -- from the time that you left the
19 ambulance to go get the wheelchair and come
20 back, how much time passed?

21 A. Oh, gosh. Maybe a minute.

22 Q. Okay. Did you or your partner ask for
23 assistance at that point?

24 A. No.

1 Q. Do you remember security personnel
2 assisting you and your partner with the patient
3 at that point?

4 A. Not from the ambulance, no. We may
5 have requested security assistance -- no. No,
6 we did not.

7 Q. Are you saying you did not request
8 security assistance?

9 A. No, we didn't -- I didn't.

10 Q. Do you know if security assistance did
11 come to help you and your partner with the
12 patient?

13 A. I don't recall that.

14 MR. FAHY: I have no further
15 questions.

16 HEARING OFFICER JOHNSON: Redirect?

17 MS. ALIKHAN: No redirect

18 HEARING OFFICER JOHNSON: Okay. So if
19 I can unclip your mike. All right. Okay.
20 Thanks for coming.

21 (Witness Excused.)

22 | (The witness was duly sworn.)

23 | VICENTE SEBASTIAN.

24 called as a witness herein, having been first

1 duly sworn, was examined and testified as
2 follows:

DIRECT EXAMINATION

4 BY MS. ALIKHAN:

5 Q. Good morning.

6 A. Good morning.

7 Q. Please state and spell your name for
8 the record.

9 A. My name is Vicente, V-I-C-E-N-T-E,
10 Sebastian, S-E-B-A-S-T-I-A-N.

11 Q. Okay. Mr. Sebastian, are you
12 employed?

13 A. Yes.

14 Q. Where are you employed?

15 A. I'm employed at Norwegian American
16 Hospital.

17 Q. What is your position at Norwegian
18 American Hospital?

19 A. I'm a security officer.

20 Q. How long have you been a security
21 officer?

22 | A. About 32 years.

23 Q. Okay. Do you recall an incident on
24 August 2nd, 2005 regarding a police officer an

1 a patient at Norwegian American Hospital?

2 A. Yes.

3 Q. And where did that incident take
4 place?

5 A. It took place inside the ER lobby
6 area.

7 Q. Were you working that day?

8 A. Yes.

9 Q. And where were you when the incident
10 took place?

11 A. I was behind the patient wheelchair.

12 Q. So please describe for the Court what
13 happened.

14 A. It started when the paramedics, the
15 ambulance asked me for assistance to bring the
16 patient out of the ambulance and to put him in
17 the wheelchair and take him inside the ER
18 triage. So I was able to convince the patient
19 to come out of the ambulance and go to the
20 wheelchair, and I took him inside the triage.

21 And then the nurse in triage tried
22 to triage the patient, but he was very
23 uncooperative. And so the nurse took him out
24 of the triage and said when you're ready, when

1 you're calmed down, and I will -- I'll talk to
2 you again.

3 Q. Okay. Let me stop you there for a
4 second. You said the patient was uncooperative
5 with the triage nurse. Can you describe that
6 in more detail?

7 A. Okay. The triage, usually when they
8 take a patient inside the hospital, they have
9 to be triaged by the nurse, and they evaluate,
10 you know, the condition of the patient. But he
11 was highly intoxicated and verbally abusive
12 subject in the wheelchair.

13 Q. How do you know that the subject in
14 the wheelchair was intoxicated?

15 A. That's what I was told by the
16 paramedics when I came out to get him out of
17 the ambulance.

18 Q. So you were told by the paramedics?

19 A. Right.

20 Q. And you said he was verbally abusive,
21 and what does that mean in specific?

22 A. Well, cursing, you know, using the F
23 language, you know.

24 Q. Okay. So go on.

1 A. And so when he wasn't able to
2 cooperate with the nurse in triage, we brought
3 him outside the ER lobby area, you know,
4 outside the door. And then Police Officer
5 Cozzi came in and tried to question him, and he
6 got loud and abusive with the police officer,
7 you know. And then he applied handcuff on him
8 on the front position.

9 Q. Okay. So you said that the patient
10 that you took from the ambulance became loud
11 and abusive with the police officer. And
12 abusive, what do you mean?

13 A. Same thing as, you know, cursing him
14 loud, being loud.

15 Q. So cursing and being loud.

16 A. Yeah.

17 Q. And you said at that point the officer
18 applied handcuffs?

19 A. Yeah. In the front position.

20 Q. Okay. Do you see that officer here
21 today?

22 A. Yes.

23 Q. And can you point him out and describe
24 a piece of clothing that he's wearing?

1 A. He's wearing a suit with like cream --

2 HEARING OFFICER JOHNSON: Yeah. We'll

3 recognize the identification of Officer Cozzi.

4 He doesn't deny that he was there.

5 BY MS. ALIKHAN:

6 Q. Okay. So after he applied the

7 handcuffs, please go on.

8 A. Okay. And then he left to get
9 something from -- I don't know. He left the
10 emergency room. So I gather to get something
11 from his car.

12 Q. So did he physically walk outside or
13 he just left the emergency room?

14 HEARING OFFICER JOHNSON: This is
15 Officer Cozzi we're talking about?

16 THE WITNESS: Yes.

17 HEARING OFFICER JOHNSON: All right.

18 THE WITNESS: And he left and he walk
19 out through the emergency room. When he came
20 back, he had leg -- leg iron, you know, leg
21 shackles. And he applied the shackles on
22 the -- on the main subject.

23 BY MS. ALIKHAN:

24 Q. So at that point the patient was

1 handcuffed, and then he was put leg shackles
2 on?

3 A. Uh-huh.

4 Q. What were the leg shackles attached
5 to?

6 A. It was just both legs chained.

7 Q. Was the patient standing up or...

8 A. No. He's still sitting down in the
9 wheelchair.

10 Q. He was in the wheelchair. What
11 happened after the shackles were applied?

12 A. There was some verbal discussion
13 between them, and Officer Cozzi took out a
14 blackjack and hit him, I think, a couple in the
15 chest, you know, about several times. And then
16 on the -- on the face and then somewhere in the
17 chest. I would say maybe about eight or maybe
18 nine or ten counts.

19 Q. Okay. Do you know what a blackjack
20 is?

21 A. Yeah. It's a like simple -- like
22 simple thing about -- maybe about this long.

23 Q. Okay. And what does it look like?

24 A. It's shaped like a -- like a maybe

1 a -- I would describe it like a wooden spoon
2 that was wrapped in a -- in a leather.

3 Q. You saw Officer Cozzi with that
4 object?

5 A. Yeah.

6 Q. Do you know where that object came
7 from?

8 A. From his waist. Took it out of his
9 waist.

10 Q. You stated that he hit the patient in
11 the chest a couple of times?

12 A. A total of maybe -- I don't know.
13 Maybe, you know, including the facial -- the
14 face, maybe about nine or ten.

15 Q. So was it only in the chest and the
16 face that Officer Cozzi hit the patient?

17 A. Yeah. That's what I recall.

18 Q. And what happened with the patient
19 after that?

20 A. We were told that there was a room
21 available to -- you know, to put him -- to put
22 the patient inside. So we -- I wheel him
23 inside, inside the ER entrance door to the
24 treatment area. And I think he hit him one

1 more time with the door.

2 Q. Now, while you were -- while you were
3 caring for the patient or transporting the
4 patient from the ambulance to the ER, did the
5 patient ever try to physically abuse you?

6 A. No. But it's verbal -- it's verbally
7 abusive, but you know, we all get that in the
8 hospital, so you just ignore it.

9 Q. Did you ever witness the patient try
10 to physically abuse the police officer?

11 A. I think he tried to lunge at the --
12 lunge at him.

13 Q. Okay. And when did that happen?

14 A. When we were -- when the nurse in
15 triage said he's not cooperating, you know.
16 Bring him outside the door. And when he was
17 questioning him or something, he tried to lunge
18 -- lunge at him, and I grab him back.

19 Q. Did he try to -- did you see him swing
20 his arm?

21 A. Well, he was already handcuffed.

22 Q. He was already handcuffed. Did...

23 Were the shackles already placed
24 on him?

1 A. No. I think handcuff came first, and
2 then he went out and got the shackles.

3 MS. ALIKHAN: Okay. No further
4 questions at this time.

5 HEARING OFFICER JOHNSON: Any cross of
6 this witness?

7 MR. FAHY: I do. Thank you.

8 CROSS-EXAMINATION

9 BY MR. FAHY:

10 Q. Mr. Sebastian, the paramedics had
11 asked you for assistance with this particular
12 patient, correct?

13 A. Yes.

14 Q. So you went out and assisted the
15 Chicago Fire Department ambulance personnel --

16 A. Right.

17 Q. -- with this particular patient,
18 right?

19 When you first saw this patient,
20 was the patient being argumentative?

21 A. Correct.

22 Q. Was he being uncooperative with you
23 and the -- and the ambulance personnel?

24 A. Yes.

1 Q. You testified that he appeared to you
2 to be intoxicated, correct?

3 A. That's what the paramedics told me.

4 Q. Okay. Based on your observations, did
5 you believe him to be in an intoxicated state?

6 A. Yes.

7 Q. Now, when he was brought into the --
8 into the hospital, he continued to be
9 uncooperative and loud towards the personnel
10 there?

11 A. Yes.

12 Q. The triage nurse refused to treat him?

13 A. Yeah. He just cursing and -- all
14 over.

15 Q. Okay. And it was shortly after that
16 that Officer Cozzi actually arrived on the
17 scene, correct?

18 A. Correct.

19 Q. Now, when Officer Cozzi first arrived,
20 he tried to question Mr. Miles?

21 A. Yes.

22 Q. And it was at that time that Mr. Miles
23 became very combative?

24 A. Uh-huh.

1 Q. And he also was verbally abusive
2 towards Officer Cozzi?

3 A. Correct.

4 Q. And would not cooperate with him,
5 correct?

6 A. Yeah.

7 Q. Now, when you say that he was verbally
8 abusive at that point, what do you mean?

9 A. Cussing you out, you know, the F word
10 and -- you know.

11 Q. And that was all prior to him being
12 handcuffed, correct?

13 A. Yeah. When he did that, he applied
14 the handcuffs. So I thought he was under
15 arrest already, you know.

16 So usually when the subject in the
17 hospital is placed under arrest, you know, we
18 try to back off because that's their prisoner.

19 Q. Okay. But you also described him and
20 Officer Cozzi first tried to question him as
21 being very combative also, correct?

22 A. The first time they met?

23 Q. Yes.

24 A. Yes, sir.

1 Q. And what do you mean by that?

2 A. Well, he tried to question him, and
3 then he just, you know -- you know, yelling and
4 screaming and cursing at Officer Cozzi.

5 Q. And at one point he actually lunged at
6 Officer Cozzi, correct?

7 A. Yeah.

8 Q. Okay. After he lunged at Officer
9 Cozzi, is that when Officer Cozzi placed him
10 under arrest?

11 A. I don't know if it was originally -- I
12 don't know if it was originally being placed
13 under arrest before their confrontation, you
14 know. So after he lunged, he put a handcuff on
15 him.

16 Q. Okay. So after the patient lunged,
17 that's when Officer Cozzi handcuffed him?

18 A. Right.

19 Q. Okay. And after he handcuffed him,
20 that's when he went out and got the leg cuffs?

21 A. Right. See, I really don't know where
22 he went. I know he went outside.

23 Q. Okay. And then returned with the leg
24 cuffs?

1 A. Right,

2 Q. And after he returned with the leg
3 cuffs, is it true that Mr. Miles at that point
4 became even more enraged as a result of that?

5 A. Right.

6 Q. Now, did you hear Officer Cozzi tell
7 him that he was being placed under arrest for
8 resisting arrest?

9 A. Not really. It was -- you know,
10 not -- I don't recall. I --

11 Q. You don't recall that? Okay.

12 A. No.

13 Q. Now, Officer Cozzi also talked to you
14 about criminal charges against Mr. Miles,
15 correct?

16 A. I don't recall it either.

17 Q. Well --

18 A. But see, when I -- when he applied the
19 handcuff, I presumed he was under arrest.

20 Q. Okay.

21 A. Uh-huh.

22 Q. But he also asked you if you wanted
23 him charged for assaulting you?

24 A. Yes.

1 Q. Okay. And did you agree that you
2 wanted him charged for assaulting you?

3 A. Since -- since he's already under
4 arrest under police custody, I said no because
5 there's no reason for it.

6 Q. Are you telling me that you did -- you
7 told Officer Cozzi that you did not want him
8 charged with assaulting you?

9 A. I think so. That's what I said.

10 Q. Sir, did you sign criminal complaints
11 for the charge of assault against you?

12 A. I don't remember really. It's been
13 quite sometime.

14 Q. So you may have signed criminal
15 complaints?

16 A. I may have signed. I may have.

17 Q. Do you remember Officer Cozzi
18 presenting you with criminal complaints for the
19 charge of assault?

20 A. I think he asked me that -- if I want
21 to sign a complaint, but I don't remember if I
22 signed the complaint. I'm not so sure. It's
23 been quite sometime.

24 Q. So what you're telling us is you're

1 not sure if you had him charged with the
2 offense of assault for his actions against you?

3 A. Towards me?

4 Q. Yes.

5 A. No.

6 Q. You don't remember?

7 A. I don't really remember.

8 Q. Well, isn't it true that you asked
9 Officer Cozzi to have him charged with regards
10 to the assault charge because of the threats he
11 had made against you?

12 A. No. He's the one who suggested to me
13 if I want to sign a complaint against him for
14 his actions.

15 Q. Okay.

16 A. I don't remember that I asked him to.

17 Q. Okay. Well, let me just try it again.

18 Did you then sign those complaints
19 charging him --

20 A. As I said, I don't remember it though,
21 you know.

22 Q. You described Officer Cozzi as
23 using -- I think you described it as a
24 blackjack, correct?

1 A. Uh-huh.

2 Q. How large was it?

3 A. Probably -- I don't know. Maybe six
4 or seven inches.

5 Q. Six or seven inches. And are you
6 familiar with blackjacks?

7 A. I seen one.

8 Q. When you saw Officer Cozzi strike the
9 blows, where were you?

10 A. I was behind the wheelchair with the
11 patient.

12 Q. You were holding the back of the
13 wheelchair?

14 A. Right.

15 Q. Did you react at all when you saw
16 Officer Cozzi make striking motions and --

17 A. Actually I was -- as I said, being a
18 security guard for so long, I don't involve
19 myself with police matters, you know. See, I
20 did that one time and --

21 Because, see, it might -- it
22 might -- we might end up hurting the -- the
23 person under police custody if he did attack us
24 or provoke something that would attack us. So

1 usually when that thing happen, when he apply
2 the handcuff, I just like back it off.

3 Q. But you were there?

4 A. I was there.

5 Q. Do you remember Officer Cozzi, you
6 know, telling the patient not to be acting up
7 in front of the hospital personnel?

8 A. Yeah.

9 Q. And was he warning him not to do that
10 when he was brought into the emergency room?

11 A. Yeah.

12 Q. And was he warning him not to do that
13 while he administered some of these strikes?

14 A. What happened, sir, again?

15 Q. Was he telling the patient not to be
16 acting up when he was brought into the
17 emergency room as he's administering some of
18 that -- some of the blows or the strikes?

19 A. No. But there is a word that he
20 mentioned. I don't work here. I don't care.
21 You know.

22 Q. Now, the patient wasn't injured as a
23 result of any of this contact that he had with
24 Officer Cozzi, was he?

1 A. I don't really visibly know if he had
2 any injury.

3 Q. Okay. Well, after this he was brought
4 right into the emergency room, correct?

5 A. Uh-huh.

6 Q. And he was treated by doctors there?

7 A. Right. He had --

8 Q. Did you remain there?

9 A. Oh, no. Once he is placed inside the
10 ER bed treatment, you know, we give the rest to
11 the staff to do what they have to do.

12 Q. Okay. So you did not observe any
13 injuries other than what you --

14 A. I didn't notice -- I didn't notice any
15 injuries.

16 Q. Okay. Other than the
17 one laceration --

18 A. Right.

19 Q. -- that he had on his arm?

20 MR. FAHY: I have no further
21 questions.

22 REDIRECT EXAMINATION

23 BY MS. ALIKHAN:

24 Q. Mr. Sebastian, you said that the

1 patient was handcuffed after he lunged at the
2 police officer; is that correct?

3 A. Yeah.

4 Q. Okay. And then at some point he was
5 handcuffed, and then a little bit later on he
6 was put -- shackles were put on him?

7 A. He was handcuffed. After he was
8 handcuffed, Officer Cozzi left and went outside
9 the hospital, you know. So I don't know what
10 he did, but then he came back with the shackle.

11 Q. Okay. And at that point the shackles
12 were placed on him, correct?

13 A. Right.

14 Q. And then it was after that --

15 A. Shackle, he pulled the blackjack and
16 hit him.

17 Q. Okay. So after initially that one
18 lunge, did Mr. -- did the patient pose any
19 threat to the police officer by swinging his
20 fist --

21 A. He finally calmed down after -- after
22 Officer Cozzi hit him.

23 Q. So he calmed down while --

24 A. After, you know. When he applied the

1 handcuff, he was still mouthing off, and he
2 tried to lunge at Officer Cozzi. So I pulled
3 him back, and then Officer Cozzi hit him and --
4 you know, with the blackjack. And then that
5 it. He calmed -- he didn't react no more.

6 Q. So it -- okay. I just want to get
7 this clear. When exactly did Officer Cozzi hit
8 the patient, at what point?

9 A. When he came back with the shackle.

10 Q. So was this before the shackles were
11 placed or after?

12 A. After it was placed.

13 Q. So after the shackles were placed on
14 is when Officer Cozzi hit the patient?

15 A. Right.

16 Q. Okay. And that's also after the
17 patient had already lunged at Officer Cozzi,
18 correct?

19 A. Yeah. After he handcuffed him, he
20 tried to lunge at Officer Cozzi.

21 Q. All right. So you stated earlier that
22 offic -- that the patient never tried to
23 physically threaten you; is that correct?

24 A. Well, he is mouth -- not physically

1 threatening me. He was just mouthing off,
2 cursing me.

3 VIDEOGRAPHER: One moment, please.

4 (Brief Pause)

5 HEARING OFFICER JOHNSON: Okay. You
6 want to proceed?

7 BY MS. ALIKHAN:

8 Q. Now Mr. Sebastian, you also stated
9 that when Officer Cozzi asked if you wanted to
10 proceed with charges of assault against the
11 patient you said no, correct?

12 A. Yeah. I think so.

13 Q. Okay. And you -- also on
14 Cross-Examination you stated that Officer Cozzi
15 was saying something when he was hitting the
16 patient?

17 A. Right.

18 Q. And what was he saying?

19 A. He said I don't care. I don't work
20 here.

21 Q. And when you wheeled -- was it you
22 that wheeled the patient into the ER room?

23 A. Yes.

24 Q. How long did -- and how long did you

1 stay after you had wheeled him into the ER
2 room?

3 A. Once we got him in the bed that he was
4 assigned, you know, which is Bed 7, we put him
5 in the bed and removed the shackle and applied
6 the restraint on the patient.

7 Q. How long would you say that took?

8 A. Probably about maybe around five
9 minutes.

10 Q. Five minutes. And then you left?

11 A. Then I left.

12 Q. Did you see the patient at any point
13 after that?

14 A. No.

15 MS. ALIKHAN: Okay. I have no further
16 questions.

17 HEARING OFFICER JOHNSON: Any recross?

18 MR. FAHY: No, your Honor.

19 HEARING OFFICER JOHNSON: Okay. If
20 you want to unhook your microphone, okay?
21 Thank you for coming.

22 (Witness Excused.)

23 HEARING OFFICER JOHNSON: You want to
24 take a seat right up here on this chair.

1 (The interpreter was duly
2 sworn)

3 (The witness was duly sworn.)

4 EVELYN ESTRADA,
5 called as a witness herein, having been first
6 duly sworn, was examined and testified as
7 follows:

8 DIRECT EXAMINATION

9 BY MS. ALIKHAN:

10 Q. Please state and spell your name for
11 the record.

12 A. Evelyn Estrada, E-S-T-R-A-D-A,
13 E-V-E-L-Y-N.

14 Q. Ms. Estrada, are you employed?

15 A. Yes.

16 Q. Where are you employed?

17 A. At the hospital, Norwegian American
18 Hospital.

19 Q. How long have you worked there?

20 A. Approximately seven years.

21 Q. What's your position there?

22 A. Security.

23 Q. On August 2nd, 2005 did you witness an
24 incident between a police officer and a

1 patient?

2 A. Yes.

3 Q. And where -- were you working that
4 day?

5 A. Yes.

6 Q. Where did that incident take place?

7 A. At the emergency room, emergency -- at
8 the lobby of the emergency room.

9 Q. And where are you in relation to where
10 the incident took place?

11 A. I was at the emergency lobby.

12 Q. Approximately how many feet were you
13 away from the incident?

14 A. First I was outside the emergency,
15 outside the lobby, and a paramedic called me
16 saying that he needed help because of a patient
17 that was inside the ambulance who did not want
18 to come out of the ambulance.

19 We took him inside the vestibule
20 in the chair of the lobby. And then after that
21 we took him inside...

22 THE WITNESS: Triage.

23 BY THE INTERPRETER:

24 A. Triage. I don't know how to say that

1 in Spanish.

2 Q. Let's back up a second. You said that
3 you were first outside helping the paramedics
4 with an uncooperative patient?

5 A. Okay. When this all occurred, it was
6 inside the emergency, not at the vestibule.

7 Q. Right. But I want to take you back to
8 when you were outside.

9 A. Okay. Me and Sebastian, my co-worker,
10 I helped him with the patient. And then we put
11 him inside the triage.

12 Q. Okay. You stated earlier that the
13 patient -- you needed to help with an
14 uncooperative patient. In what way was that
15 person being uncooperative?

16 A. He didn't want to come out of the
17 ambulance, and also he was cussing, saying bad
18 words. And then we took him inside the triage
19 along with the nurse. And then he started also
20 speaking badly to the nurse. And he was
21 threatening her. It was then that the nurse
22 said that she wasn't going to take care of him
23 until he will calm down.

24 Q. How was he threatening her?

1 A. Well, he was saying that he was going
2 to hit her, and he got up once, but due to the
3 fact that he was intoxicated, he wanted to hit
4 the nurse.

5 Q. Did he hit the nurse?

6 A. No. .

7 Q. Did you see him swing his arms to hit
8 the nurse?

9 A. Well, due to his intoxication, he
10 wasn't able to. He was just trying to.

11 Q. How do you know he was trying to?

12 A. Because I was watching him.

13 Q. Okay. Did you see his arms swing?

14 A. He went like this.

15 (Demonstrating)

16 | BY MS. ALIKHAN:

17 Q. So he grabbed towards her?

18 A. He tried.

19 Q. Okay. So after the nurse said that
20 she didn't want to treat him anymore, what
21 happened?

22 A. Then we got him out of the triage.
23 Then once we were outside the triage at the
24 lobby, the officer put the handcuffs on him.

1 Q. When did you first see the officer?

2 A. Once the paramedic came in with us, he
3 was already behind us.

4 Q. Okay. So what happened at that point?

5 A. Well, then the patient was already
6 inside the triage.

7 Q. And what happened inside the triage?

8 A. We were just staying there hoping that
9 nothing would happen about the nurse.

10 Q. Okay. Where was the patient at that
11 point?

12 A. He was sitting on a wheelchair.

13 Q. And were his hands and legs free?

14 A. Yes.

15 Q. Did the officer ever approach the
16 patient?

17 A. Not inside the triage, but he did at
18 the door.

19 Q. Okay. So when was the patient taken
20 out of triage?

21 A. Once the nurse said that she wasn't
22 going to do the triage to him because of the
23 way he was and that he had to calm down first.

24 Q. So were you inside the triage as well?

1 A. No. I was at the door.

2 Q. How did the patient get from inside
3 the triage to outside of the triage?

4 A. When we went to the other part, and
5 then my co-worker got him out of the triage.

6 Q. Was he still in the wheelchair at this
7 point?

8 A. Yes.

9 Q. When the officer approached the
10 patient, what happened?

11 A. Okay. Once the officer noticed that
12 he was talking badly, then he told the man that
13 he was under arrest and he handcuff him.

14 Q. So the patient was talking badly to
15 the officer, and that's when the officer placed
16 him under arrest?

17 A. Yes. The patient was talking like
18 that, ugly to everyone who was there.

19 Q. And by ugly, what do you mean?

20 A. Cursing.

21 Q. Was it just cursing?

22 A. And threatening.

23 Q. And what did he threaten?

24 A. That he was going to kill everyone.

1 Q. Okay. You say that he said he was
2 going to kill everyone. Did he ever threaten
3 to kill you?

4 A. No. He wasn't referring to no one in
5 particular.

6 Q. Okay. Did the patient ever try to
7 physically hurt you?

8 A. No.

9 Q. Did you see the patient ever try to
10 physically hurt the police officer?

11 A. Only by words.

12 Q. Okay. So at what point were the --
13 when the officer said put on the handcuffs,
14 what point was that?

15 A. Once my co-worker got the wheelchair
16 outside, outside the triage, in the lobby.

17 Q. So at that point, that's when the
18 officer placed the handcuffs on the patient?

19 A. Yes.

20 Q. What happened after the handcuffs were
21 placed on the patient?

22 A. Then the doctor was going by, and he
23 start giving orders pertaining to the patient.
24 And then at that moment the officer went

1 outside, outside the building. And then he
2 came back a few minutes later with some
3 shackles, and he placed them on his feet.

4 Q. What was the patient doing at that
5 point?

6 A. Nothing.

7 Q. Was he yelling?

8 A. No.

9 Q. So after the shackles were placed onto
10 the patient's feet, what did you observe after
11 that?

12 A. That the officer took out an object, a
13 round object, small, it looked like it was
14 leather, and with it he hit him at the face and
15 the chest.

16 Q. Did he hit the patient anywhere else
17 with that?

18 A. At the stomach.

19 Q. Do you know about how many times the
20 police officer hit the patient?

21 A. Approximately ten times.

22 Q. Did you ever see -- prior to the
23 patient being handcuffed or shackled, did you
24 ever see the patient lunge at the police

1 officer?

2 A. No.

3 Q. And when all this was happening, where
4 were you in relation to the incident?

5 A. Where was I?

6 Q. Yes.

7 A. To the side of my co-worker, behind
8 the wheelchair.

9 Q. Do you -- when the police officer was
10 hitting the patient, do you recall if he was
11 saying anything while he was hitting him?

12 A. He wasn't saying anything.

13 Q. The police officer wasn't saying
14 anything?

15 A. The policeman said something.

16 Q. What did he say?

17 A. He said -- I don't know how to say it
18 in Spanish.

19 Q. Do you know how to say it in English?

20 A. Can I say that in here in court?

21 HEARING OFFICER JOHNSON: Yes.

22 BY THE WITNESS:

23 A. I don't give a shit. I don't work
24 here. I don't give a shit. I don't work here.

1 I'm not security.

2 BY THE INTERPRETER: He said I don't
3 give a shit. I don't work here. I'm a police
4 officer.

5 THE WITNESS: I'm not security.

6 BY THE INTERPRETER: I'm not security.

7 BY MS. ALIKHAN:

8 Q. And what happened after that?

9 A. While, he was -- when he said that, he
10 was hitting him, and then we were carrying him
11 into the emergency. And then once, as we were
12 getting through the door, he went ahead again
13 and hit him again.

14 Q. So when you were getting through the
15 emergency room doors, the officer hit the
16 patient again?

17 A. That is when he was following and
18 hitting him, yes.

19 Q. And where did he hit him that last
20 time?

21 A. In the chest.

22 Q. Did you observe the patient bleeding
23 or any -- from anywhere other than his initial
24 wound?

1 A. From the mouth.

2 Q. Did you observe any other wounds?

3 A. Are you asking me besides the one that
4 he had already -- he already had when he came
5 in?

6 Q. Yes.

7 A. No.

8 Q. When he came in, did you observe him
9 bleeding from the -- when he initially came
10 in, did you observe him bleeding from the
11 mouth?

12 A. No.

13 Q. What wounds did you observe him to
14 have when he initially came in?

15 A. I only noticed a cut in one of his
16 arms, but I don't know which one.

17 Q. Okay. Did you ever tell Officer Cozzi
18 that you wanted to file a complaint against the
19 patient for assault?

20 A. I don't remember that.

21 Q. Did you ever sign a complaint or a
22 police report indicating that you wanted to
23 press charges against the patient?

24 A. Vaguely I remember, yes.

1 Q. Do you remember what that piece of
2 paper was?

3 A. No.

4 Q. You stated earlier that -- just to
5 clarify, you stated earlier that the patient
6 never tried to physically hurt you; is that
7 correct?

8 A. Yes.

9 MS. ALIKHAN: I have no further
10 questions for this witness.

11 HEARING OFFICER JOHNSON: Okay.

12 | Cross-Examination.

CROSS-EXAMINATION

14 BY MR. FAHY:

15 Q. Ma'am, you testified that you observed
16 the patient to have bleeding from his mouth?

17 A. Yes.

18 Q. Are you saying that's a result of any
19 strikes that Officer Cozzi administered?

20 A. Yes.

21 Q. You prepared a report with regards to
22 this incident, didn't you?

23 A. Yes.

24 Q. And you prepared a report on the same

1 day of August 2nd, 2005, correct?

2 A. Yes.

3 Q. The only mention that you made with
4 regards to the contact between Mr. Miles and
5 Officer Cozzi was that Mr. Miles became
6 verbally abusive and hostile towards Officer
7 Cozzi, and he had to physically subdue
8 Mr. Miles and put him in Room Number 7. Isn't
9 that the only indication -- or the only thing
10 that you report in your report relative to this
11 incident?

12 THE INTERPRETER: Counsel, if you
13 don't mind, I need to have that broken down.

14 MR. FAHY: I'll try it again.

15 BY MR. FAHY:

16 Q. Isn't it true, ma'am, that you never
17 mentioned in your report that Officer Cozzi
18 caused any bleeding to the patient's mouth?

19 A. No. I didn't mention that.

20 Q. Okay. Well, you prepared another
21 report a week later, correct?

22 A. Possibly. I don't remember though.

23 Q. Well, I show you what I'll mark as
24 Respondent's Exhibit Number 2 for

1 identification. And I'll show counsel.

2 THE INTERPRETER: 2 did you say,
3 counsel?

4 MR. FAHY: Number 2.

5 BY MR. FAHY:

6 Q. Do you recognize that document?

7 A. Yes.

8 Q. And is that the report you made on
9 August 2nd, 2005 with regards to this incident?

10 A. Possibly.

11 Q. What do you mean by possibly?

12 A. Because it happened two years ago, I
13 almost don't remember. I remember the other
14 one, handwrite it.

15 Q. Okay. What do you recognize Exhibit
16 Number 2 to be?

17 A. That is my report.

18 Q. Okay. And that's your report that was
19 made on August 2nd, 2005 after that incident,
20 correct?

21 A. Yes.

22 Q. Nowhere in that report do you indicate
23 that Officer Cozzi caused the patient's mouth
24 to bleed, do you?

1 A. Excuse me?

2 Q. Is that indicated anywhere on that
3 report?

4 A. No.

5 Q. In fact, the only thing indicated in
6 this report is that Mr. Miles became verbally
7 abusive and hostile towards Officer Cozzi, and
8 he had to physically subdue Mr. Miles and put
9 him in Room Number 7?

10 A. Yes.

11 Q. Now, you prepared another report a
12 week later, correct?

13 A. Yes.

14 Q. And that was on August 9, 2005?

15 A. Yes.

16 Q. And you wrote that out?

17 A. Yes.

18 Q. You wrote it out in English?

19 A. Yes.

20 Q. In your report of August 9th, 2005 do
21 you ever indicate anywhere in that report that
22 Officer Cozzi caused an injury to the patient's
23 mouth?

24 A. No.

1 Q. When Officer Cozzi first encountered
2 Mr. Miles, isn't it true that he was trying to
3 calm him down?

4 A. Yes.

5 Q. Isn't it true that Mr. Miles would not
6 listen to the police officer?

7 A. Yes.

8 Q. The patient was abusive towards
9 Officer Cozzi?

10 A. It was mostly against the nurse.

11 Q. Okay. With regards to Officer Cozzi,
12 was he also verbally abusive to Officer Cozzi?

13 A. Possibly.

14 Q. Okay. Well, let me ask you. Before
15 the patient was handcuffed, did you see the
16 patient lunge at Officer Cozzi?

17 A. No.

18 Q. Did you see him try to get up out of
19 the wheelchair and go after Officer Cozzi?

20 A. No.

21 Q. Did you see your partner, Security
22 Officer Sebastian helping Officer Cozzi
23 restrain the patient?

24 A. Yes. As I said at the beginning, as

1 the officer was trying to handcuff the patient,
2 I was in the rear, right next to my co-worker.
3 And I wasn't looking at when the officer was
4 trying to restrain the patient.

5 Q. Okay. So are you saying you didn't
6 see that?

7 A. I saw as he was placing the handcuffs
8 to the patient, but I didn't notice my
9 co-worker helping the officer.

10 Q. Did you see the patient struggling
11 with Officer Cozzi as Officer Cozzi was
12 attempting to cuff him?

13 A. Yes.

14 Q. After Officer Cozzi had the patient
15 handcuffed, did that patient continue to scream
16 and be verbally abusive to the officer?

17 A. Against everyone that was there in
18 that room.

19 Q. Including the police officer?

20 A. Yes.

21 Q. He was threatening to kill people
22 there?

23 A. Yes.

24 Q. I may have missed this answer on your

1 Direct Examination, but did you sign a criminal
2 complaint for assault against this patient?

3 A. Possibly, but I don't remember.

4 Q. Do you remember speaking to Officer
5 Cozzi with regards to a criminal charge of
6 assault against this particular patient?

7 A. Possibly. I don't remember.

8 Q. Okay. And do you remember telling
9 Officer Cozzi that this individual had
10 threatened you?

11 A. No.

12 Q. After this incident, the patient was
13 brought to the emergency room, correct?

14 A. Inside.

15 Q. I'm sorry?

16 A. We put him inside the emergency room,
17 yes.

18 Q. After he's brought inside the
19 emergency room, was he seen by a doctor?

20 A. When he was in that room, yes.

21 Q. Did you stay with the patient while he
22 was treated?

23 A. No.

24 MR. FAHY: I have nothing further.

1 MS. ALIKHAN: Just a brief redirect.

2 DIRECT EXAMINATION

3 BY MS. ALIKHAN:

4 Q. You spoke to an investigator from the
5 Office of Professional Standards, right?

6 A. Possibly. A few people came to the
7 hospital.

8 Q. Her name was Grace Wilson?

9 A. I'm sorry. I don't remember names.

10 Q. Okay. Did you speak anyone -- speak
11 with anyone from the City of Chicago regarding
12 this incident?

13 A. Yes.

14 Q. And did you give her -- did you tell
15 her what happened, gave her the details in
16 regards to this incident?

17 A. Yes.

18 MS. ALIKHAN: I have in my hand what
19 I'm marking as Superintendent's Exhibit 2.
20 Showing opposing counsel.

21 BY MS. ALIKHAN:

22 Q. Now, Ms. Estrada, is that the
23 statement you gave to the investigator from the
24 City of Chicago?

1 A. Yes.

2 Q. In that statement did you tell the
3 investigator that you noticed the patient
4 bleeding after he was struck by --

5 MR. FAHY: Objection. Foundation,
6 hearsay.

7 HEARING OFFICER JOHNSON: Yeah.
8 The -- well, I assume the question's going to
9 be did she mention that -- this injury to the
10 mouth, right?

11 MS. ALIKHAN: That is correct.

12 HEARING OFFICER JOHNSON: Okay. Her
13 testimony -- well, actually, I mean, you
14 brought it on cross it wasn't in her reports.
15 This is rehabilitation of that. So I'm going
16 to overrule the objection and let that question
17 be asked only.

18 BY MS. ALIKHAN:

19 Q. In that report did you inform the
20 investigator that you saw the patient bleeding
21 from the mouth after he was struck by Officer
22 Cozzi?

23 A. I said that. I don't know if I said
24 it here though.

1 MS. ALIKHAN: You can take your time.

2 HEARING OFFICER JOHNSON: Well, you're
3 asking about the injury to the mouth, right?

4 MS. ALIKHAN: Right.

5 THE WITNESS: Yes.

6 HEARING OFFICER JOHNSON: We do
7 actually need some foundation on this though.
8 Did she say that this is her statement?

9 MS. ALIKHAN: Yes, she did.

10 HEARING OFFICER JOHNSON: Okay. All
11 right then. And you got a date out?

12 MS. ALIKHAN: Well, there's
13 technically not a date. But I was doing it to
14 rehabilitate -- on what date --

15 HEARING OFFICER JOHNSON: Okay. Well
16 -- okay.

17 BY MS. ALIKHAN:

18 Q. On what date did you give this
19 interview?

20 A. Excuse me. What was the question?

21 Q. On what date did you give this
22 interview; do you remember?

23 A. No. I don't remember the date.

24 Q. Does that document refresh your memory

1 as to when you gave that statement?

2 A. Yes.

3 Q. What is the date?

4 A. August. Everything occurred during
5 the month of August. The exact date, I don't
6 remember.

7 HEARING OFFICER JOHNSON: Okay. She
8 doesn't remember the date.

9 THE WITNESS: The 26th of August.

10 BY MS. ALIKHAN:

11 Q. Is there a reason why you didn't write
12 that in your other reports?

13 A. Because my job is to make reports.
14 That is our responsibility. We just cannot
15 write down very profound things.

16 Q. What do you mean by that?

17 A. I wouldn't be able to explain that,
18 but my job is to -- my job is solely to make --
19 to make my report, to put down what happened.
20 But that by itself, I did not put it down, no.

21 MS. ALIKHAN: Okay. No further
22 questions.

23

24

1 RECROSS-EXAMINATION

2 BY MR. FAHY:

3 Q. Superintendent's Exhibit Number 2 was
4 not prepared by you, was it?

5 A. This one?

6 Q. Yes.

7 A. They did it, but I was saying it.

8 Q. Did you sign that document?

9 A. The original, yes.

10 Q. Do you have the original before you?

11 A. No.

12 MR. FAHY: I have nothing further.

13 HEARING OFFICER JOHNSON: Okay. If
14 you want to unhook your microphone. Thank you.

15 (Witness Excused.)

16 HEARING OFFICER JOHNSON: The City
17 have additional witnesses?

18 MS. ALIKHAN: Yes.

19 HEARING OFFICER JOHNSON: Let me just
20 ask who you're calling.21 MS. ALIKHAN: One additional
22 occurrence witness and then a foundational
23 witness for the DVD.

24 HEARING OFFICER JOHNSON: Okay. We've

1 heard from five witnesses now of what's
2 happened -- you can go -- five witnesses as to
3 what's happened in the emergency room. I'm
4 beginning to think it's -- and we have a tape
5 as well. I'm beginning to think it's
6 cumulative.

10 MS. ALIKHAN: Well, I mean, it doesn't
11 go to that. The assertion is made by the
12 Respondent that the conduct is not egregious
13 enough to warrant termination. And by putting
14 on the evidence that we have, we'd like to
15 rebut that and actually show that it was
16 egregious enough.

17 HEARING OFFICER JOHNSON: What's this
18 witness going to say that has not already been
19 said?

20 MS. ALIKHAN: He's going to give his
21 account of what happened.

22 HEARING OFFICER JOHNSON: Who is it?
23 Is it a security guard?

24 MS. ALIKHAN: Yes, it is.

1 HEARING OFFICER JOHNSON: It's a third
2 security guard?

3 MS. ALIKHAN: Yes.

4 HEARING OFFICER JOHNSON: Okay. And
5 he's witness to the event that took place in
6 the triage area of the emergency room at
7 Norwegian American Hospital?

8 MS. ALIKHAN: Yes. That is correct.

9 HEARING OFFICER JOHNSON: Okay. I
10 just -- I haven't seen the tape yet or the DVD.
11 It's -- given the -- but assuming that the
12 tape -- the tape shows the incident as well,
13 right?

14 MS. ALIKHAN: That is correct.

15 HEARING OFFICER JOHNSON: Okay.
16 Assuming there's a tape, assuming -- that shows
17 that, as you represent. Given the officer's
18 admission, given the fact that we've heard four
19 occurrence witnesses on this, I really am not
20 sure what this is adding. And so I would allow
21 you to make an offer of proof of what this
22 witness would say, but I think we've really --
23 it's really cumulative at this point.

24 Let me add to this. Is there

1 going to be witnesses called by the Respondent
2 that will -- who are occurrence witnesses in --
3 as to what happened in the triage room of the
4 Norwegian American Hospital?

5 MR. FAHY: The only occurrence witness
6 is my client.

7 HEARING OFFICER JOHNSON: Okay. So
8 they're not -- they're not really disputing
9 this in any significant way that I can see. Or
10 to the extent that they are, you've overwhelmed
11 them with four witnesses.

12 MS. ALIKHAN: Okay.

13 HEARING OFFICER JOHNSON: Which I'm
14 not -- it's not being critical of you. I'm
15 just -- it's enough. It's enough. So if you
16 want to make an offer of proof that if called
17 this witness would say X, Y, and Z, I'd permit
18 that.

19 MS. ALIKHAN: Well, I mean to be fair,
20 I think there's slight variations in the
21 admissions that the Respondent has made. So I
22 think these occurrence witnesses are showing
23 that.

24 HEARING OFFICER JOHNSON: What would

1 that be? I mean, the issue in the case is he
2 was charged with using the blackjack or the --
3 you know, there's an issue about what it is he
4 exactly used, all right? But he was using an
5 unauthorized weapon to bludgeon Randall Miles
6 after he was already restrained. That's the
7 issue in the case.

8 I mean, I don't understand that
9 the officer's going to take the position that
10 he had authority to use that weapon or that
11 there was enough activity by Miles to justify
12 that use of that force. I mean, that seems to
13 be the main issue in the case.

14 I'm just -- I don't want to cut
15 you short, but we're really -- it's really
16 redundant. You're doing a good job. You're
17 doing a very thorough job.

18 MS. ALIKHAN: I mean, I haven't had
19 the opportunity to completely cross this -- or
20 you know, perform my adverse examination on
21 him, so I'm not exactly sure what he's going to
22 say. So to not be able to put on witnesses at
23 this point and close my case in chief --

24 HEARING OFFICER JOHNSON: Well, I'll

1 tell you what, do you have the DVD --

2 MS. ALIKHAN: Yes.

3 HEARING OFFICER JOHNSON: -- ready to
4 go? Why don't we at this point recall Officer
5 Cozzi.

6 MR. FAHY: Could I just have a couple
7 minutes to use the men's room?

8 HEARING OFFICER JOHNSON: Okay. Yeah.
9 Let's take a -- I'll tell you what. Let's take
10 a short recess. My plan would be to have you
11 recall Officer Cozzi, ask him whatever you want
12 vis-a-vis the DVD. That's where we stopped
13 last time.

14 MS. ALIKHAN: Okay.

15 HEARING OFFICER JOHNSON: And then
16 let's really see if you need additional
17 occurrence witnesses, okay?

18 MS. ALIKHAN: Sure.

19 HEARING OFFICER JOHNSON: All right.
20 So let's take a couple minute recess.

21 (Break Taken)

22 HEARING OFFICER JOHNSON: So we're
23 back on the record after an off-the-record
24 discussion about witnesses. And at this point

1 we're going to have the City resume its adverse
2 examination of Officer Cozzi that was
3 interrupted by our technical problems earlier.
4 So if Officer Cozzi could come back up here and

REDACTED

REDACTED

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1 Okay. So you can step down after you unhook
2 yourself. All right, Officer?

3 (Witness Excused.)

4 HEARING OFFICER JOHNSON: Okay. Now
5 City has an additional witness in terms of an
6 additional security guard based on our
7 off-the-record discussion, right?

8 MS. ALIKHAN: That is correct.

9 HEARING OFFICER JOHNSON: Okay. So I
10 do not want to have cumulative testimony. I
11 don't want a security guard to come in here and
12 describe everything that happened from
13 beginning to end because we've already heard it
14 four times and we have a -- we have a tape.

15 But I will let you call him on the
16 specific issues of whether there was an -- he
17 or she has any knowledge about an attempted
18 punch aimed at Estrada or Sebastian. Or -- and
19 I will allow you to call that person to talk
20 about whether there was an attempted punch at
21 the officer.

22 MS. ALIKHAN: All right.

23 HEARING OFFICER JOHNSON: But I don't
24 want to hear over, you know, that the guy was

1 combative and he was verbally abusive. We all
2 know that that's the case, okay? So if you
3 want to call him for those two purposes, and
4 then if you want to make an offer of proof for
5 anything else, that would be fine.

6 (Brief Pause)

7 (The witness was duly sworn.)

8 RALPH SNOW,
9 called as a witness herein, having been first
10 duly sworn, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MS. ALIKHAN:

14 Q. Please state and spell your name for
15 the record.

16 A. My name is Ralph Snow, R-A-L-P-H,
17 S-N-O-W.

18 Q. Are you employed?

19 A. Yes, ma'am, I am.

20 Q. Where are you employed?

21 A. Norwegian American Hospital.

22 Q. What's your position there?

23 A. Security officer.

24 Q. And how long have you been a security

1 officer?

2 A. Over five years.

3 Q. And were you working on August 2nd,
4 2005?

5 A. Yes.

6 Q. Okay. And did you witness an incident
7 concerning a patient and Officer Cozzi?

8 A. Yes, I did.

9 Q. And where were you when that incident
10 was occurring?

11 A. I was in the monitor room watching
12 monitors, TV screens.

13 Q. You were in the monitor room?

14 A. Yes.

15 Q. And how far is the monitor room to --
16 in relation to the incident?

17 A. Maybe about 15 feet.

18 Q. 15 feet? Would you say you had a
19 clear view or was something obstructing your
20 view?

21 A. No. I was seeing clearly.

22 Q. So when you saw -- you stated you saw
23 an incident. And during that time that you
24 were observing the incident, did you ever see

1 the patient get up and lunge at Officer Cozzi?

2 A. No, I didn't.

3 Q. Did you ever see the patient at that
4 time that you observed -- did you see the
5 patient attempt to strike or lunge at Officer
6 Evelyn Estrada?

7 A. No, I didn't.

8 HEARING OFFICER JOHNSON: Okay. And
9 one other thing I would allow too is since
10 there is an issue about how many blows, I don't
11 know that it's really that important, to be
12 honest, but how many blows were struck with the
13 blackjack. If you want to inquire about that,
14 that would be okay.

15 BY MS. ALIKHAN:

16 Q. During the time that you observed, did
17 you see the patient attempt to strike or lunge
18 at Security Officer Sebastian?

19 A. No, I didn't.

20 Q. Would you say that you saw the
21 incident from beginning to end?

22 A. No, I didn't.

23 Q. At what point did you -- did you begin
24 observing the incident?

1 A. From the trash area, from the ER ramp
2 I heard the commotion of this patient being
3 loud and swearing and being unruly.

4 Q. Okay. Was the police officer already
5 on-site at that point?

6 A. Not at that second, no.

7 Q. At what -- and you said -- did you see
8 the incident until the end?

9 A. I seen most of it, because I don't
10 know what happened after the officer and
11 security went inside the ER.

12 Q. Okay. So you saw up until they --

13 A. They went into the emergency room
14 door, as far as I saw.

15 Q. Did you see the officer strike the
16 patient with an object?

17 A. Yes, I did.

18 Q. And were you able to determine what
19 the object was?

20 A. Yes, I did.

21 Q. And as you know, what is it?

22 A. It was a blackjack.

23 Q. Were you able to determine how many
24 times the officer struck the patient with the

1 blackjack?

2 A. About 10 or 11 times.

3 Q. Do you know where the officer struck
4 the patient?

5 A. Struck the patient here, shoulders,
6 and face.

7 Q. So in the stomach, the shoulders, and
8 the face?

9 A. Yes.

10 MS. ALIKHAN: I have no further
11 questions at this time.

12 HEARING OFFICER JOHNSON: Okay.

13 Cross-Examination.

14 CROSS-EXAMINATION

15 BY MR. FAHY:

16 Q. You weren't the first security officer
17 on the scene, were you?

18 A. No, sir, I wasn't.

19 Q. Officer Estrada and --

20 A. Sebastian.

21 Q. -- Sebastian were the first
22 officers -- security officers dealing with the
23 patient, correct?

24 A. Yes, sir.

1 Q. And I'm not sure -- and did you say
2 Officer Cozzi was there when you came out of
3 the monitor room?

4 A. Not at that time. I went -- I stepped
5 out just to see the commotion because I needed
6 to keep an eye on the cameras. That's what I
7 was supposed to be doing. And then he kept on
8 doing -- being uncooperative and being loud, so
9 I just stood there, and then that's when I seen
10 a police officer and...

11 Q. Okay. Is that the first time you saw
12 a police officer there?

13 A. At that time, yes, sir.

14 Q. Do you know if that police officer was
15 there earlier before you came out of the
16 monitor room?

17 A. Not as I'm aware of.

18 Q. And the commotion that you're
19 describing, that's what brought you out of the
20 monitor room?

21 A. Of the patient being loud, yes, sir.

22 Q. Okay. He was also combative?

23 A. Well, he wasn't cooperating with the
24 ER staff, the triage nurse or the doctor or

1 anybody. He was just...

2 Q. Was he threatening the staff?

3 A. Well, they were saying, but I -- I
4 couldn't make out word for word what he was
5 saying.

6 Q. Okay.

7 A. He was talking about his rights and
8 things like that, but...

9 Q. But was he threatening the staff is my
10 question?

11 MS. ALIKHAN: Objection to relevance.

12 HEARING OFFICER JOHNSON: No,
13 overruled.

14 BY MR. FAHY:

15 Q. Was he threatening the staff?

16 A. I couldn't hear the threats. I
17 couldn't make out exactly.

18 Q. Did you prepare a report with regards
19 to this incident on August 8th of 2005?

20 A. Yes, sir. I did.

21 Q. And did you write that report
22 yourself?

23 A. Yes, sir, I did.

24 Q. And did you summarize --

1 MS. ALIKHAN: Objection. Beyond the
2 scope of my Direct Examination. I was only
3 allowed to hit certain topics, so...

4 HEARING OFFICER JOHNSON: Right.
5 Okay. I'll let you redirect on this point of
6 the threat.

7 BY MR. FAHY:

8 Q. Did you sign that report after you
9 prepared it?

10 A. I believe so.

11 Q. In that report did you state that the
12 patient was threatening the staff?

13 A. Yes, sir, I did.

14 Q. Why don't we do it this way.

15 MS. ALIKHAN: Objection to what
16 report. What's the date?

17 MR. FAHY: I gave the date of August
18 8th.

19 THE WITNESS: August 8th, '05.

20 MR. FAHY: Well, just do it this way.
21 I believe this is Respondent's Exhibit --

22 HEARING OFFICER JOHNSON: I think he
23 said did, right? Wasn't that your answer that
24 yes, you did write that, that they did threaten

1 him?

2 MR. FAHY: Yeah, but he appears to be
3 looking at a report --

4 MS. ALIKHAN: Right.

5 MR. FAHY: -- and I think we should
6 mark it as an exhibit.

7 HEARING OFFICER JOHNSON: Okay. Fine.

8 MR. FAHY: And I think I'm on Number
9 5, so Respondent's Exhibit 5.

10 BY MR. FAHY:

11 Q. Do you have that report with you?

12 A. Yes, I do.

13 Q. Okay.

14 HEARING OFFICER JOHNSON: Actually,
15 let's call this Respondent's 3, right?

16 MR. FAHY: I think I'm on Number 5.

17 HEARING OFFICER JOHNSON: Okay.

18 BY MR. FAHY:

19 Q. And just for the record, you were
20 looking at your report which has now been
21 marked as Respondent's Exhibit Number 5 when
22 you answered yes to the question, correct?

23 A. Okay.

24 Q. Well, just so I'm clear, does your

1 report -- in your report did you indicate that
2 he was threatening to the staff?

3 A. Yes, it is.

4 MR. FAHY: I have no further
5 questions.

6 HEARING OFFICER JOHNSON: You want to
7 redirect on the threat?

8 MS. ALIKHAN: No.

9 HEARING OFFICER JOHNSON: No? Okay.
10 All right. Thanks for coming. If you can
11 unhook your mike. Thank you.

12 (Witness Excused.)

13 HEARING OFFICER JOHNSON: Now, the
14 City has an additional witness?

15 MS. ALIKHAN: No. The City does not.

16 HEARING OFFICER JOHNSON: Okay. But
17 as I understand it, the City had a witness to
18 lay a foundation for the DVD, correct?

19 MS. ALIKHAN: Correct.

20 HEARING OFFICER JOHNSON: But with
21 respect to the DVD, just -- I can't remember if
22 we did this on the record, you have no
23 objection to its authenticity and to its
24 foundation?

1 MR. FAHY: No, I do not.

2 HEARING OFFICER JOHNSON: All right.

3 And you might want to make an offer into
4 evidence of the DVD.

5 MS. ALIKHAN: To what it depicts?
6 What do you mean?

7 HEARING OFFICER JOHNSON: Put the DVD
8 into evidence.

9 MS. ALIKHAN: Oh, yeah. I do want to
10 move for its admission.

11 HEARING OFFICER JOHNSON: Okay. Do
12 you have any objection to its admissibility as
13 opposed to its foundation?

14 MR. FAHY: No. I don't have any
15 objection.

16 HEARING OFFICER JOHNSON: Okay. Okay.
17 So that's received.

18 (Superintendent's Exhibit No.
19 1 received.)

20 HEARING OFFICER JOHNSON: Okay. Now
21 the City has -- and as long as we're on it, the
22 City's 1 is in evidence. I did admit 3, 4, and
23 5 over the objection of Respondent. City's 2 I
24 don't believe you ever offered.

1 MS. ALIKHAN: We're not going to.

2 HEARING OFFICER JOHNSON: And you're
3 not going to. Okay. Good. And that's all you
4 have is City's 1 through 5, right?

5 MS. ALIKHAN: Correct.

6 HEARING OFFICER JOHNSON: Okay. Now,
7 the City has one additional witness that you
8 were talking about for next time which is a use
9 of force expert; is that right?

10 MS. ALIKHAN: Correct.

11 HEARING OFFICER JOHNSON: You want to
12 identify that person?

13 MS. ALIKHAN: Larry Snelling.

14 HEARING OFFICER JOHNSON: Larry
15 Snelling? Okay.

16 MS. ALIKHAN: Yes.

17 HEARING OFFICER JOHNSON: Do you see a
18 need at this point to call that witness?

19 MS. ALIKHAN: I will not be handling
20 this case on August 17th, so I cannot speak for
21 the attorney that's going to be assigned to it.

22 HEARING OFFICER JOHNSON: Okay. I
23 don't see a need for that witness. Assuming
24 that that witness is going to testify to the

1 use-of-force model that is taught at the
2 Chicago Police Academy and is going to testify
3 that an active resister cannot be subdued with
4 a closed fist or an impact weapon like a
5 blackjack or a slap -- flat slap -- flat sap,
6 whatever, because it's not an issue in the
7 case.

17 MS. ALIKHAN: No. I mean, they would
18 testify to what they determined -- what type of
19 subject they determined the arrestee to be and
20 what the appropriate use of force was
21 dependent -- I mean, we understand that the
22 blackjack is not appropriate. But they would
23 also call into question the assessment of the
24 police officer. I mean, his determination as

1 to what type of offender.

2 HEARING OFFICER JOHNSON: So they were
3 going to say that Mr. Miles was not an active
4 resister?

5 MS. ALIKHAN: That is correct.

6 HEARING OFFICER JOHNSON: They're
7 going to say that he was a passive resister?

8 MS. ALIKHAN: They would -- they would
9 testify to something below the active.

10 HEARING OFFICER JOHNSON: Okay. Well,
11 there's only one other box which is passive
12 resister.

13 MS. ALIKHAN: Right. Or whatever they
14 determined, if he was a cooperative subject or
15 a passive resister under the active resister.

16 HEARING OFFICER JOHNSON: They're
17 going to say that he was not an active
18 resister. He was a passive resister. That's
19 what you're saying?

20 MS. ALIKHAN: Right. Or I mean,
21 whatever they determine it to be under the
22 active resister, which to my knowledge is
23 passive, but I can't speak to that's exactly
24 what he's going to testify to, but it's going

1 to be under the active resister --

2 HEARING OFFICER JOHNSON: When you say
3 under, you mean less?

4 MS. ALIKHAN: Right. Less than active
5 resister.

6 HEARING OFFICER JOHNSON: So he's
7 going to be active resister or less?

8 MS. ALIKHAN: Correct.

9 HEARING OFFICER JOHNSON: Okay. But
10 in either of those cases, whether he's an
11 active resister or a passive resister there's
12 no ability to use a closed fist or an impact
13 weapon, right?

14 MS. ALIKHAN: Or the open-hand strike,
15 I believe.

16 HEARING OFFICER JOHNSON: But your
17 theory of the case is he didn't use an
18 open-hand strike. He used a --

19 MS. ALIKHAN: Right. It bears on the
20 statement that he gave to OPS when he did
21 make -- when he stated -- and in his reports
22 that he did --

23 HEARING OFFICER JOHNSON: Okay. But
24 the testimony is -- and any expert witness can

1 only go off of whatever the actual testimony
2 is. The testimony, as I understand it from
3 Officer Cozzi, is he never used an open hand.
4 He has said that that statement to OPS was not
5 correct, and that he also testified that he in
6 fact used the flat sap.

7 MS. ALIKHAN: I guess I'm mistaken. I
8 thought he testified that he did use the
9 open-hand strike prior to the handcuffing.

10 HEARING OFFICER JOHNSON: That's not
11 what I heard. So -- so I don't -- I don't see
12 a need for this witness, so I'm going to make
13 that ruling. But if the City wants to make an
14 offer of proof next time as to what that
15 witness would testify to if called, that would
16 be fine. Okay?

17 MR. FAHY: Based on your ruling, is he
18 not going to testify?

19 HEARING OFFICER JOHNSON. I would not
20 permit him to testify unless there's -- unless
21 you can make some argument that we haven't
22 heard yet.

23 MR. FAHY: Should that change, I would
24 just like to have any kind of reports or notes

1 or anything that this person is relying on
2 because I haven't received anything. If he
3 should --

4 MS. ALIKHAN: There are no notes.

5 MR. FAHY: Should something change, I
6 would like to be able to be prepared.

7 HEARING OFFICER JOHNSON: Okay. I
8 understand that. So we'll then recess till
9 August 17th at which point we'll continue the
10 hearing. Okay?

11 MR. FAHY: Is the City -- is the City
12 resting at this point?

13 MS. ALIKHAN: No. The City is not.

14 MR. FAHY: Just for scheduling
15 purposes, if we can get an idea how many
16 witnesses the City has left, just so I know.

17 MS. ALIKHAN: We just -- I just have
18 that one, but like I said, it will be
19 reassigned. So I mean, if somebody reads the
20 transcript and they want to add to it, I'm not
21 going to rest and foreclose that opportunity to
22 do so.

23 HEARING OFFICER JOHNSON: Okay. Well,
24 is it going to be reassigned --

1 MR. FAHY: Do you know who it's going
2 to be --

3 MS. ALIKHAN: No, I don't.

4 HEARING OFFICER JOHNSON: Okay. I
5 think it's a fair question for purposes of
6 scheduling. So here's what I would say. Is if
7 the City is going to call additional witnesses,
8 they need to apprise Mr. Fahey of that at least
9 a week before August 17th, okay?

10 MS. ALIKHAN: Okay.

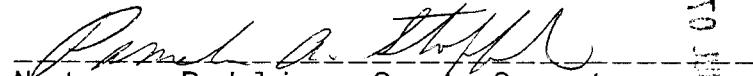
11 HEARING OFFICER JOHNSON: All right.
12 Okay. So we'll stand in recess.

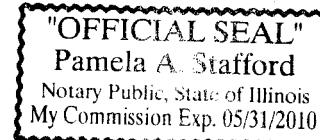
13 MR. FAHY: Thank you.

14 (Which were all the
15 proceedings had in the
16 above-entitled cause this
17 date and time.)

1 STATE OF ILLINOIS)
2 COUNTY OF COOK) SS.
3

4 PAMELA A. STAFFORD, being first
5 duly sworn on oath says that she is a court
6 reporter doing business in the City of Chicago
7 and that she reported in shorthand the
8 proceedings of said hearing and that the
9 foregoing is a true and correct transcript of
10 her shorthand notes so taken as aforesaid and
11 contains the proceedings given at said hearing.
12
13

14 
15 Notary Public, Cook County
16 Illinois,
17 My Commission expires 5/31/2010
18
19



Office of Professional Standards

08 August 2005
CR 307992

To: Chief Administrator
Office of Professional Standards

From: Inv. Kristi M. Lyons #232

Subject: Office of Emergency Management and Communications (OEMC)
Tape Transcription

Playback will begin on August 2, 2005 at 12:59:35 hours

OEMC Chicago Emergency, Miller.

Unknown Caller Miller, could you holler on the Fireside?

OEMC Yes.

Unknown Caller Send a Beat car to 5309 West North. There's a stabbing.

OEMC Alrighty.

Unknown Caller Okay.

OEMC Alright you all already on the scene?

Unknown Caller Yes.

OEMC Okay.

Unknown Caller Alright.

Playback will begin on August 2, 2005 at 13:07:12 hours

OEMC Chicago Emergency, Lanem.

DeLuca Lanem, DeLuca over on the Fire side.

OEMC Hi.

Cozzi

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00440

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DeLuca Hey Ambulance 48 is at a stabbing at 5309 West North Avenue.

OEMC Uh huh.

DeLuca And you guys got, I think that they said that three (3) cars were dispatched. One showed up and left and they need him back there.

OEMC Okay.

DeLuca They need a beat car or a supervisor to go over there. They need somebody over there.

OEMC Okay.

DeLuca Okay, thanks.

OEMC Alright.

Playback will begin on August 2, 2005 at 12:40:30 hours

OEMC Chicago Emergency Services

Female Caller Yes, this man just got stabbed on North Avenue and Lockwood. He is standing in the doorway. Um, (inaudible) bleeding uh real bad.

OEMC He's bleeding? What happened? Do you know what happened?

Female Caller I don't know. All I know is somebody said that someone stabbed the man. I don't know.

OEMC Oh, he is stabbed?

Female Caller Yes he is stabbed.

OEMC Stay on the line. Hold on ma'am.

OEMC Fire Department, Canning.

Female Caller There is a guy, yeah ma'am, um there is a guy been stabbed over here on Lockwood and North Avenue.

OEMC North and Lockwood, right on the corner?

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Female Caller Right on the corner.

OEMC He's been stabbed?

Female Caller Yes, he's been stabbed. He's like in the building standing in the hallway like.

OEMC All right, which building?

Female Caller (talking to an unknown person in background, What's this? Okay, what's this, okay.) It's on the, um North Avenue. (talking to an unknown person in background, What side is this? Westside of the street.) It is on the Westside of the street.

OEMC West Side of Lockwood?

Female Caller Westside, Southside, Westside of um, um North Avenue.

OEMC On the Southside of North Avenue?

Female Caller Yes.

OEMC And west of Lockwood?

Female Caller Right.

OEMC The 5309 building?

Female Caller That's true. I think that is what it is, too.

OEMC 5309 West North Avenue?

Female Caller Yes.

OEMC In the lobby, he's in there?

Female Caller He's standing in the doorway (inaudible) lobby.

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OEMC How old is he? Do you know?

Female Caller I do not know how old is this man is. He's got to be up there in age.

OEMC Eighties (80's)?

Female Caller No, he's not that old. I would say maybe in his sixties (60's)

OEMC In his sixties (60's)?

Female Caller Fifty-nine (59) to sixty (60) somewhere up in there.

OEMC He's awake and breathing, right?

Female Caller Yeah, he is. I'm not at his at him right now because somebody let me know that this man was stabbed, so I'm just calling. I see a police cars over there but (inaudible)

OEMC Do you know where he is stabbed at ma'am?

Female Caller In the shoulder, I think?

OEMC In the shoulder?

Female Caller Yes.

OEMC Okay. What is your phone number?

Female Caller Oh, I'm on somebody's cell number.

OEMC Okay, do you even want to give it out?

Female Caller I don't even know their cell number, somebody just let me use their phone.

OEMC Oh, okay. Alrighty, we'll be right there. You're not with this guy right now, are you?

Female Caller No, I'm not. I can go down there and wait though.

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OEMC You're going to back down there, you said?

Female Caller I'll go back around there.

OEMC Okay, we're on the way over there right now. Watch for us, okay?

Female Caller Okay.

OEMC We'll see you there.

Female Caller Okay, pardon me.

OEMC We're on the way over there right now, ma'am.

Female Caller Okay.

OEMC Okay.

Playback will begin on August 2, 2005 at 13:05:06 hours

OEMC 2534

2534 2534

OEMC I need you to ride with fire on a person stabbed. 5309 West North Avenue. 016th District had a 5309 Lockwood and they said that they had a bad address on their end.

2534 Inaudible

OEMC Okay, Fire.

2510 I'm going to back him up over there, squad.

2532 2532

OEMC 2532

2532 I'm clear from lunch, I'll head that way, squad.

OEMC 33, you were trying to come in.

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Cozzi

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2533 I drove right by there, that was like ten (10), when you gave me my job on Monticello. The ambulance is probably long gone by now. They were putting someone in the ambulance though. So there was probably a removal from that location.

OEMC We're going to call them and double check, thank you though. Standby for your information.

Playback will begin on August 2, 2005 at 13:10:10 hours

2534 2534

OEMC 2534

2534 Give a slowdown. We don't see anybody. Is it supposed to be inside?

OEMC Hang on, let me look 2534 it doesn't say because we also got a second ticket that said ambulance was on the scene. It doesn't say inside or outside.

2534 Did the ambulance make a removal?

OEMC To Norwegian, but like I said that's got a ticket that I just duped out that said that they were still on the scene.

Playback will begin on August 2, 2005 at 13:40:20 hours

2534 2534

OEMC 2534

2534 (Inaudible) highly intoxicated or is combative with nurses but he's got a minor cut. It's not life threatening.

OEMC All right.

Playback will begin on August 2, 2005 at 13:45:10 hours

2534 2534

OEMC 2534

2534 Just notify my sergeant. This victim here uh he is highly intoxicated and he tried to take a swing at both me and the security guards. So we I think we'll place him into custody, so after he gets looked at by the doctor, he's going to be going back to jail, back to 025.

** INFORMATION INDICTMENT RETURN SHEET **

CASE NO.	IR	DEFENDANT	ARRAIGNMENT	
			NO.	DATE
06CR-764		WILLIAM COZZI	1	AZR 01/19/2006
GJ- 366	FBI- ISB- CB-PRINTATARR RD/AR: CR307992	Sex: M Race: W DOB: 04/30/1957 Add: 7218 W Seminole Chicago, IL 60631 Arrest Agy: Cook County Sac Inv Arrest Date: 08/02/2005		
	DIRECT INDICTMENT			12/28/2005
	ASA: Matthew Thrun	Unit: Special Pros		
	Chg: 1	Agg Battery/Weapon/No Firearm 720-5\12-4(B)(1)	0000935100	Class: 3
	Chg: 2	Agg Battery/Weapon/No Firearm 720-5\12-4(B)(1)	0000935100	Class: 3
	Chg: 3	Agg Battery/Public Place 720-5\12-4(B)(8)	0000935800	Class: 3
	Chg: 4	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 5	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 6	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 7	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 8	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 9	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 10	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 11	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 12	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 13	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 14	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 15	Offl Misconduct/Forbidden Act 720-5\33-3(B)	0001430100	Class: 3
	Chg: 16	Battery 720-5\12-3	0000930000	Class: A
	Chg: 17	Battery 720-5\12-3	0000930000	Class: A

C.R. 307992
ATTACHMENT # 60A

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

**The DECEMBER, 2005 Grand Jury of the
Circuit Court of Cook County.**

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **AGGRAVATED BATTERY**

in that HE, INTENTIONALLY OR KNOWINGLY, WITHOUT LEGAL JUSTIFICATION, CAUSED BODILY HARM TO RANDLE MILES WHILE USING A DEADLY WEAPON OTHER THAN BY THE DISCHARGE OF A FIREARM, TO WIT: HE STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY WITH A BLACK-JACK TYPE WEAPON, CAUSING SWELLING TO RANDLE MILES' LIP AND/OR PAIN TO RANDLE MILES' BODY, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-4(b)(1) OF THE ILLINOIS COMPILED STATUTES 1992, AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 935100
CASE NO. 06CR-764

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **AGGRAVATED BATTERY**

in that HE, INTENTIONALLY OR KNOWINGLY, WITHOUT LEGAL JUSTIFICATION, CAUSED BODILY HARM TO RANDLE MILES, TO WIT: HE STRUCK RANDLE MILES ABOUT THE HEAD AND/OR BODY, CAUSING SWELLING TO RANDLE MILES' LIP AND/OR PAIN TO RANDLE MILES' BODY, WHILE THEY WERE ON OR ABOUT A PUBLIC PLACE OF ACCOMMODATION, TO WIT: A LOBBY OF NORWEGIAN AMERICAN HOSPITAL, 1044 N. FRANCISCO, CHICAGO, COOK COUNTY, ILLINOIS, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-4(b)(8) OF THE ILLINOIS COMPILED STATUTES 1992, AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 935800
CASE NO. 06CR-764

Cozzi

C. R. 307992
ATTACHMENT # 60A
000269

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: HE COMMITTED THE OFFENSE OF AGGRAVATED BATTERY IN THAT HE, INTENTIONALLY OR KNOWINGLY, WITHOUT LEGAL JUSTIFICATION, CAUSED BODILY HARM TO RANDLE MILES WHILE USING A DEADLY WEAPON OTHER THAN BY THE DISCHARGE OF A FIREARM, TO WIT: HE STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY WITH A BLACK-JACK TYPE WEAPON, CAUSING SWELLING TO RANDLE MILES' LIP AND/OR PAIN TO RANDLE MILES'

BODY, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-4(b)(1) OF THE ILLINOIS COMPILED STATUTES, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

C.R. 307992
ATTACHMENT # 60A

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: HE COMMITTED THE OFFENSE OF AGGRAVATED BATTERY IN THAT HE, INTENTIONALLY OR KNOWINGLY, WITHOUT LEGAL JUSTIFICATION, CAUSED BODILY HARM TO RANDLE MILES WHILE USING A DEADLY WEAPON OTHER THAN BY THE DISCHARGE OF A FIREARM, TO WIT: HE STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY WITH A BLUDGEON, CAUSING SWELLING TO RANDLE MILES' LIP AND/OR PAIN TO RANDLE MILES' BODY, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-4(b)(1) OF THE ILLINOIS COMPILED STATUTES, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

Cozzi

C.R. 307992
ATTACHMENT # 60A
000271

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: HE COMMITTED THE OFFENSE OF AGGRAVATED BATTERY IN THAT HE, INTENTIONALLY OR KNOWINGLY, WITHOUT LEGAL JUSTIFICATION, CAUSED BODILY HARM TO RANDLE MILES, TO WIT: HE STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY, CAUSING SWELLING TO RANDLE MILES' LIP AND/OR PAIN TO RANDLE MILES' BODY, WHILE THEY WERE ON OR ABOUT A PUBLIC PLACE OF ACCOMMODATION, TO WIT: A LOBBY OF NORWEGIAN AMERICAN HOSPITAL, 1044 N. FRANCISCO, CHICAGO, COOK COUNTY, ILLINOIS, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-4(b)(8) OF THE ILLINOIS COMPILED STATUTES, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

Cozzi

C. R. 387992
ATTACHMENT # 60A
000272

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of OFFICIAL MISCONDUCT

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: HE COMMITTED THE OFFENSE OF BATTERY, IN THAT HE, INTENTIONALLY OR KNOWINGLY WITHOUT LEGAL JUSTIFICATION, CAUSED BODILY HARM TO RANDLE MILES, TO WIT: HE STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY, CAUSING SWELLING TO RANDLE MILES' LIP AND/OR PAIN TO RANDLE MILES' BODY, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-3(a)(1) OF THE ILLINOIS COMPILED STATUTES, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY

Cozzi

C.R. 307992
0002 ATTACHMENT # 60A

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: HE COMMITTED THE OFFENSE OF BATTERY, IN THAT HE, INTENTIONALLY OR KNOWINGLY WITHOUT LEGAL JUSTIFICATION, MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH RANDLE MILES, TO WIT: HE STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-3(a)(2) OF THE ILLINOIS COMPILED STATUTES, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

Cozzi

C. R. 307992
ATTACHMENT # 60A

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: VIOLATED ARTICLE V, RULE 1 OF THE CITY OF CHICAGO DEPARTMENT OF POLICE RULES & REGULATIONS WHICH STATES:

"PROHIBITED ACTS INCLUDE: VIOLATION OF ANY LAW OR ORDINANCE"

IN THAT HE COMMITTED THE OFFENSE OF AGGRAVATED BATTERY, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-4(b) OF THE ILLINOIS COMPILED STATUTES, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

Cozzi

C.R. 307992
ATTACHMENT #60A
000275

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: VIOLATED ARTICLE V, RULE 1 OF THE CITY OF CHICAGO DEPARTMENT OF POLICE RULES & REGULATIONS WHICH STATES:

"PROHIBITED ACTS INCLUDE: VIOLATION OF ANY LAW OR ORDINANCE"

IN THAT HE COMMITTED THE OFFENSE OF BATTERY, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-3(a) OF THE ILLINOIS COMPILED STATUTES, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

Cozzi

C.R. 307992
000ATTACHMENT # 62A

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: VIOLATED ARTICLE V, RULE 2 OF THE CITY OF CHICAGO DEPARTMENT OF POLICE RULES & REGULATIONS WHICH STATES:

'PROHIBITED ACTS INCLUDE: ANY ACTION OR CONDUCT WHICH IMPEDES THE DEPARTMENT'S EFFORTS TO ACHIEVE ITS POLICY AND GOALS OR BRINGS DISCREDIT UPON THE DEPARTMENT.'

IN THAT HE, INTENTIONALLY OR KNOWINGLY WITHOUT LEGAL JUSTIFICATION, STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY WHILE RANDLE MILES WAS HANDCUFFED, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

C. R. 307992
ATTACHMENT # 60A

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: VIOLATED ARTICLE V, RULE 8 OF THE CITY OF CHICAGO DEPARTMENT OF POLICE RULES & REGULATIONS WHICH STATES:

"PROHIBITED ACTS INCLUDE: DISRESPECT TO OR MALTREATMENT OF ANY PERSON, WHILE ON OR OFF DUTY."

IN THAT HE, INTENTIONALLY OR KNOWINGLY WITHOUT LEGAL JUSTIFICATION, STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY WHILE RANDLE MILES WAS HANDCUFFED, IN VIOLATION OF CHAPTER 720, ACT 5; SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

Cozzi

C. R. 307992
000278 ATTACHMENT # 60A

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: VIOLATED ARTICLE V, RULE 9 OF THE CITY OF CHICAGO DEPARTMENT OF POLICE RULES & REGULATIONS WHICH STATES:

"PROHIBITED ACTS INCLUDE: ENGAGING IN ANY UNJUSTIFIED VERBAL OR PHYSICAL ALTERCATION WITH ANY PERSON WHILE ON OR OFF DUTY."

IN THAT HE, INTENTIONALLY OR KNOWINGLY WITHOUT LEGAL JUSTIFICATION, STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY WHILE RANDLE MILES WAS HANDCUFFED, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **OFFICIAL MISCONDUCT**

in that HE, BEING A PUBLIC EMPLOYEE IN HIS OFFICIAL CAPACITY, TO WIT: A CITY OF CHICAGO POLICE OFFICER, KNOWINGLY PERFORMED AN ACT WHICH HE KNEW HE WAS FORBIDDEN BY LAW TO PERFORM, TO WIT: VIOLATED ARTICLE V, RULE 6 OF THE CITY OF CHICAGO DEPARTMENT OF POLICE RULES & REGULATIONS WHICH STATES:

"PROHIBITED ACTS INCLUDE: DISOBEDIENCE OF AN ORDER OR DIRECTIVE, WHETHER WRITTEN OR ORAL."

TO WIT: VIOLATED CITY OF CHICAGO DEPARTMENT OF POLICE GENERAL ORDER 02 - 08, ITEM III - A, TITLED: USE OF FORCE GUIDELINES, WHICH STATES:

"WHEN A DEPARTMENT MEMBER ENGAGES A MEMBER OF THE PUBLIC, THE MEMBER WILL DO SO IN SUCH A MANNER WHICH AFFORDS THAT PERSON THE RESPECT AND DIGNITY TO WHICH ALL PERSONS ARE ENTITLED. THE USE OF EXCESSIVE FORCE OR UNWARRANTED PHYSICAL FORCE OR UNPROFESSIONAL CONDUCT BY A DEPARTMENT MEMBER WILL NOT BE TOLERATED UNDER ANY CIRCUMSTANCES"

IN THAT HE, INTENTIONALLY OR KNOWINGLY, USED EXCESSIVE OR UNWARRANTED PHYSICAL FORCE BY STRIKING RANDLE MILES, A MEMBER OF THE PUBLIC, ABOUT HIS HEAD AND/OR BODY WHILE RANDLE MILES WAS HANDCUFFED, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 33-3(b) OF THE ILLINOIS COMPILED STATUTES 1994 AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 1430100
CASE NO. 06CR-764

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **BATTERY**

in that HE, INTENTIONALLY OR KNOWINGLY, WITHOUT LEGAL JUSTIFICATION, CAUSED BODILY HARM TO RANDLE MILES, TO WIT: HE STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY, CAUSING SWELLING TO RANDLE MILES' LIP AND/OR PAIN TO RANDLE MILES' BODY, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-3(a)(1) OF THE ILLINOIS COMPILED STATUTES 1992, AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 930000
CASE NO. 06CR-764

Cozzi

C. R. 307992
ATTACHMENT # 60A
000281

The Grand Jurors chosen, selected, and sworn, in and for the County of Cook, in the State of Illinois, in the name and by the authority of the People of the State of Illinois, upon their oaths present that on or about August 2, 2005 at and within the County of Cook, Illinois.

WILLIAM COZZI

committed the offense of **BATTERY**

in that HE, INTENTIONALLY OR KNOWINGLY WITHOUT LEGAL JUSTIFICATION, MADE PHYSICAL CONTACT OF AN INSULTING OR PROVOKING NATURE WITH RANDLE MILES, TO WIT: HE STRUCK RANDLE MILES ABOUT HIS HEAD AND/OR BODY, IN VIOLATION OF CHAPTER 720, ACT 5, SECTION 12-3(a)(2) OF THE ILLINOIS COMPILED STATUTES 1992, AS AMENDED, AND

contrary to the Statute, and against the peace and dignity of the same People of the State of Illinois.

Criminal Code: 930000
CASE NO. 06CR-764



Cozzi

C. R. 307992
ATTACHMENT # 60A
000282

ADMINISTRATIVE PROCEEDING RIGHTS (Statutory)
/NOTIFICATION OF CHARGES/ALLEGATIONS
CHICAGO POLICE DEPARTMENTGIVEN TO ACCUSED
DATE

TIME

NAME OF ACCUSED William Cozzi	RANK PO	STAR NO. 4129	UNIT OF ASSIGNMENT 025
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ADMINISTRATIVE PROCEEDINGS RIGHTS (Statutory)

The law provides that you are to be advised of the following:

1. Any admission or statement made by you in the course of this hearing, interrogation or examination may be used as the basis for your suspension or as the basis for charges seeking your removal or discharge or suspension in excess of 30 days.
2. You have the right to counsel of your choosing to be present with you to advise you at this hearing, Interrogation or examination and you may consult with him as you desire.
3. You have a right to be given a reasonable time to obtain counsel of your own choosing.
4. You have no right to remain silent. You have an obligation to truthfully answer questions put to you. You are advised that your statements or responses constitute an official police report.
5. If you refuse to answer questions put to you, you will be ordered by a superior officer to answer the questions.
6. If you persist in your refusal after the order has been given to you, you are advised that such refusal constitutes a violation of the Rules and Regulations of the Chicago Police Department and will serve as a basis for which your discharge will be sought.
7. You are further advised that by law any admission or statement made by you during the course of this hearing, interrogation or examination and the fruits hereof cannot be used against you in a subsequent criminal proceedings.

CHARGES/ALLEGATIONS

The law provides that if you are to be charged with criminal offense or if your separation from the Department will be sought, you are to be advised in writing of the specific illegal or improper acts alleged against or attributed to you.

Furthermore, Department policy provides that you have a right to be advised in writing of the names of complainants and the allegations against you prior to any questioning of you concerning the allegations regardless of the nature of the allegation and even if the allegation is such that it will not result in the filing of criminal charges or the filing of separation charges.

Accordingly, you are hereby advised that the following allegations have been attributed to you:

COMPLAINANTS:

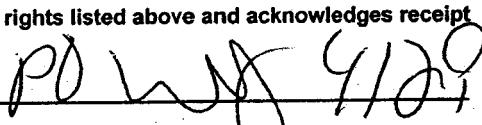
1. Michael O'Grady (complainant)
2. Randle Miles (victim)
3. OPS Inv. Kristi M. Lyons #232

It is alleged that on 02 August 2005, at approximately 1345 hours, inside Norwegian American Hospital, located at 1044 North Francisco, and during the course of the arrest of Randle Miles; you:

- physically maltreated Miles;
- were in possession of unauthorized equipment/weapon; and
- provided a false report relative to circumstances of the arrest of Randle Miles.

The undersigned hereby acknowledges that he was informed of the rights listed above and acknowledges receipt in writing of the charges or allegations against him.

Signature



Witnesses:

COMPLAINT REGISTER NO.
307992

ATTACHMENT NO.



ADMINISTRATIVE PROCEEDING RIGHTS (Statutory)
/NOTIFICATION OF CHARGES/ALLEGATIONS
CHICAGO POLICE DEPARTMENTGIVEN TO ACCUSED
DATE *2051083*TIME *800*

NAME OF ACCUSED	RANK	STAR NO.	UNIT OF ASSIGNMENT
William Cozzi	PO	4129	025

ADMINISTRATIVE PROCEEDINGS RIGHTS (Statutory)

The law provides that you are to be advised of the following:

1. Any admission or statement made by you in the course of this hearing, interrogation or examination may be used as the basis for your suspension or as the basis for charges seeking your removal or discharge or suspension in excess of 30 days.
2. You have the right to counsel of your choosing to be present with you to advise you at this hearing, Interrogation or examination and you may consult with him as you desire.
3. You have a right to be given a reasonable time to obtain counsel of your own choosing.
4. You have no right to remain silent. You have an obligation to truthfully answer questions put to you. You are advised that your statements or responses constitute an official police report.
5. If you refuse to answer questions put to you, you will be ordered by a superior officer to answer the questions.
6. If you persist in your refusal after the order has been given to you, you are advised that such refusal constitutes a violation of the Rules and Regulations of the Chicago Police Department and will serve as a basis for which your discharge will be sought.
7. You are further advised that by law any admission or statement made by you during the course of this hearing, interrogation or examination and the fruits hereof cannot be used against you in a subsequent criminal proceedings.

CHARGES/ALLEGATIONS

The law provides that if you are to be charged with criminal offense or if your separation from the Department will be sought, you are to be advised in writing of the specific illegal or improper acts alleged against or attributed to you.

Furthermore, Department policy provides that you have a right to be advised in writing of the names of complainants and the allegations against you prior to any questioning of you concerning the allegations regardless of the nature of the allegation and even if the allegation is such that it will not result in the filing of criminal charges or the filing of separation charges.

Accordingly, you are hereby advised that the following allegations have been attributed to you:

COMPLAINANTS:

1. Michael O'Grady (complainant)
2. Randle Miles (victim)
3. OPS Inv. Kristi M. Lyons #232

It is alleged that on 02 August 2005, at approximately 1345 hours, inside Norwegian American Hospital, located at 1044 North Francisco, and during the course of the arrest of Randle Miles; you:

- physically maltreated Miles;
- were in possession of unauthorized equipment/weapon; and
- provided a false report relative to circumstances of the arrest of Randle Miles.

The undersigned hereby acknowledges that he was informed of the rights listed above and acknowledges receipt in writing of the charges or allegations against him.

Witnesses:

D. Carter #219

Signature *PO W. O'Grady 4/09*COMPLAINT REGISTER NO.
307992

ATTACHMENT NO.

56

ADMINISTRATIVE PROCEEDING RIGHTS (Statutory)
 /NOTIFICATION OF CHARGES/ALLEGATIONS
 CHICAGO POLICE DEPARTMENT

GIVEN TO ACCUSED
 DATE *HS/POS*

TIME *9:53*

NAME OF ACCUSED
 William Cozzi

RANK PO	STAR NO. 4129	UNIT OF ASSIGNMENT 025
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ADMINISTRATIVE PROCEEDINGS RIGHTS (Statutory)

The law provides that you are to be advised of the following:

1. Any admission or statement made by you in the course of this hearing, interrogation or examination may be used as the basis for your suspension or as the basis for charges seeking your removal or discharge or suspension in excess of 30 days.
2. You have the right to counsel of your choosing to be present with you to advise you at this hearing, Interrogation or examination and you may consult with him as you desire.
3. You have a right to be given a reasonable time to obtain counsel of your own choosing.
4. You have no right to remain silent. You have an obligation to truthfully answer questions put to you. You are advised that your statements or responses constitute an official police report.
5. If you refuse to answer questions put to you, you will be ordered by a superior officer to answer the questions.
6. If you persist in your refusal after the order has been given to you, you are advised that such refusal constitutes a violation of the Rules and Regulations of the Chicago Police Department and will serve as a basis for which your discharge will be sought.
7. You are further advised that by law any admission or statement made by you during the course of this hearing, interrogation or examination and the fruits hereof cannot be used against you in a subsequent criminal proceedings.

CHARGES/ALLEGATIONS

The law provides that if you are to be charged with criminal offense or if your separation from the Department will be sought, you are to be advised in writing of the specific illegal or improper acts alleged against or attributed to you.

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Accordingly, you are hereby advised that the following allegations have been attributed to you:

COMPLAINANTS:

1. Michael O'Grady (complainant)
2. Randle Miles (victim)
3. OPS Inv. Kristi M. Lyons #232

It is alleged that on 02 August 2005, at approximately 1345 hours, inside Norwegian American Hospital, located at 1044 North Francisco, and during the course of the arrest of Randle Miles; you:

- physically maltreated Miles;
- were in possession of unauthorized equipment/weapon; and
- provided a false report relative to circumstances of the arrest of Randle Miles.

The undersigned hereby acknowledges that he was informed of the rights listed above and acknowledges receipt in writing of the charges or allegations against him.

Signature *POW*

Witnesses:

K. M. Lyons #232
S. Carter #214

COMPLAINT REGISTER NO.
307992

ATTACHMENT NO.
58

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 06CR0076401

WILLIAM COZZI

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION with the Clerk of the Circuit Court.

Charging the above named defendant with:

720-5/12-4 (b) (1)	F	AGG BATTERY/WEAPON/NO FIREARM
720-5/12-4 (b) (1)	F	AGG BATTERY/WEAPON/NO FIREARM
720-5/12-4 (b) (8)	F	AGG BATTERY/PUBLIC PLACE
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/33-3 (b)	F	OFFL MISCONDUCT/FORBIDDEN ACT
720-5/12-3	M	BATTERY
720-5/12-3	M	BATTERY

The following disposition(s) was/were rendered before the Honorable Judge(s) :

01/05/06 IND/INFO-CLK OFFICE-PRES JUDGE 06CR0076401 ID# CR100021117	01/19/06 1701
01/19/06 CASE ASSIGNED BIEBEL, PAUL JR.	01/19/06 1703
01/19/06 APPEARANCE FILED FOX, LAWRENCE P.	00/00/00
01/19/06 DEFENDANT ARRAIGNED FOX, LAWRENCE P.	00/00/00
01/19/06 PLEA OF NOT GUILTY FOX, LAWRENCE P.	00/00/00
01/19/06 BAIL AMOUNT SET FOX, LAWRENCE P.	00/00/00
01/19/06 O/C ONLY REL DEF ON C/D BOND FOX, LAWRENCE P.	00/00/00
	\$ 50000

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 06CR0076401

WILLIAM COZZI

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION
 01/19/06 DEF REM CUST CC SHERIF 00/00/00
 FOX, LAWRENCE P.
 01/19/06 DEFENDANT IN CUSTODY 00/00/00
 FOX, LAWRENCE P.
 01/19/06 PRISONER DATA SHEET TO ISSUE 00/00/00
 FOX, LAWRENCE P.
 01/19/06 FINGER PRINTING ORDERED 00/00/00
 FOX, LAWRENCE P.
 01/19/06 ADMONISH AS TO TRIAL IN ABSENT 00/00/00
 FOX, LAWRENCE P.
 01/19/06 CONTINUANCE BY AGREEMENT 02/27/06
 FOX, LAWRENCE P.
 01/27/06 SPECIAL ORDER 00/00/00
 NOTIFICATION OF MOTION SUBSTITUTION OF JUDGE
 01/27/06 HEARING DATE ASSIGNED 01/31/06 1703
 01/31/06 DEFENDANT ON BOND 00/00/00
 FOX, LAWRENCE P.
 01/31/06 MOTION TO SUBSTITUTE JUDGE 00/00/00 S 2
 FOX, LAWRENCE P.
 01/31/06 TRANSFERRED 02/01/06 1701
 FOX, LAWRENCE P.
 02/01/06 CASE ASSIGNED 02/01/06 1720
 BIEBEL, PAUL JR.
 02/01/06 DEFENDANT ON BOND 00/00/00
 KIRBY, JOHN P.
 02/01/06 CONTINUANCE BY AGREEMENT 03/01/06
 KIRBY, JOHN P.
 03/01/06 DEFENDANT ON BOND 00/00/00
 BOWIE, JR., PRESTON L.
 03/01/06 WITNESSES ORDERED TO APPEAR 00/00/00
 BOWIE, JR., PRESTON L.
 03/01/06 CONTINUANCE BY AGREEMENT 03/08/06
 BOWIE, JR., PRESTON L.
 03/08/06 DEFENDANT ON BOND 00/00/00
 BOWIE, JR., PRESTON L.
 03/08/06 CONTINUANCE BY AGREEMENT 04/05/06
 BOWIE, JR., PRESTON L.

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 06CR0076401

WILLIAM COZZI

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION
04/05/06 DEFENDANT ON BOND 00/00/00
KIRBY, JOHN P.
04/05/06 CONTINUANCE BY AGREEMENT 05/11/06
KIRBY, JOHN P.
05/11/06 DEFENDANT ON BOND 00/00/00
BOWIE, JR., PRESTON L.
05/11/06 CONTINUANCE BY AGREEMENT 06/08/06
BOWIE, JR., PRESTON L.
06/08/06 DEFENDANT ON BOND 00/00/00
BOWIE, JR., PRESTON L.
06/08/06 CONTINUANCE BY AGREEMENT 07/14/06
BOWIE, JR., PRESTON L.
07/14/06 DEFENDANT ON BOND 00/00/00
BOWIE, JR., PRESTON L.
07/14/06 CONTINUANCE BY AGREEMENT 08/25/06
BOWIE, JR., PRESTON L.
08/25/06 DEFENDANT ON BOND 00/00/00
BROWN, MICHAEL
08/25/06 SPECIAL ORDER 00/00/00
DEFT. MOTION IN LIMMIE
BROWN, MICHAEL
08/25/06 CONTINUANCE BY AGREEMENT 10/05/06
BROWN, MICHAEL
10/05/06 DEFENDANT ON BOND 00/00/00
BROWN, MICHAEL
10/05/06 DISCOVERY ANSWER FILED 00/00/00 F 2
BROWN, MICHAEL
10/05/06 WITNESSES ORDERED TO APPEAR 00/00/00
BROWN, MICHAEL
10/05/06 CONTINUANCE BY AGREEMENT 11/16/06
BROWN, MICHAEL
11/16/06 DEFENDANT ON BOND 00/00/00
BROWN, MICHAEL
11/16/06 WITNESSES ORDERED TO APPEAR 00/00/00
BROWN, MICHAEL
11/16/06 CONTINUANCE BY ORDER OF COURT 11/21/06
BROWN, MICHAEL

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 06CR0076401

WILLIAM COZZI

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION
 11/21/06 DEFENDANT ON BOND 00/00/00
 BROWN, MICHAEL
 11/21/06 MOTION IN LIMINE 00/00/00 S 2
 BROWN, MICHAEL
 11/21/06 CONTINUANCE BY AGREEMENT 01/05/07
 BROWN, MICHAEL
 01/05/07 DEFENDANT ON BOND 00/00/00
 BROWN, MICHAEL
 01/05/07 CONTINUANCE BY AGREEMENT 01/26/07
 BROWN, MICHAEL
 01/26/07 DEFENDANT ON BOND 00/00/00
 BROWN, MICHAEL
 01/26/07 CONTINUANCE BY AGREEMENT 02/26/07
 BROWN, MICHAEL
 02/26/07 DEFENDANT IN CUSTODY 00/00/00
 BROWN, MICHAEL
 02/26/07 PRISONER DATA SHEET TO ISSUE 00/00/00
 BROWN, MICHAEL
 02/26/07 CONTINUANCE BY AGREEMENT 03/13/07
 BROWN, MICHAEL
 03/13/07 DEFENDANT IN CUSTODY 00/00/00
 BROWN, MICHAEL
 03/13/07 PRISONER DATA SHEET TO ISSUE 00/00/00
 BROWN, MICHAEL
 03/13/07 WITNESSES ORDERED TO APPEAR 00/00/00
 BROWN, MICHAEL
 03/13/07 CONTINUANCE BY AGREEMENT 05/10/07
 BROWN, MICHAEL
 05/10/07 DEFENDANT ON BOND 00/00/00
 BROWN, MICHAEL
 05/10/07 PLEA OF GUILTY C016 00/00/00
 BROWN, MICHAEL
 05/10/07 JURY WAIVED 00/00/00
 BROWN, MICHAEL
 05/10/07 FINDING OF GUILTY C016 00/00/00
 BROWN, MICHAEL
 05/10/07 DEF SENTENCED TO PROBATION C016 00/00/00
 MISDEMEANOR PROBATION
 18 MTH
 BROWN, MICHAEL

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 06CR0076401

WILLIAM COZZI

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION
05/10/07 DEF DEMAND FOR TRIAL 00/00/00

BROWN, MICHAEL	C001 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C002 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C003 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C004 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C005 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C006 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C007 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C008 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C009 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C010 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C011 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C012 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C013 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C014 00/00/00
05/10/07 NOLLE PROSEQUI	
BROWN, MICHAEL	C015 00/00/00

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Page 006

PEOPLE OF THE STATE OF ILLINOIS

VS

NUMBER 06CR0076401

WILLIAM COZZI

CERTIFIED STATEMENT OF CONVICTION / DISPOSITION

I, DOROTHY BROWN, Clerk of the Circuit Court of Cook County, Illinois, and keeper of the records and seal thereof do hereby certify that the electronic records of the Circuit Court of Cook County show that:

The States Attorney of Cook County filed an INDICTMENT/INFORMATION
05/10/07 NOLLE PROSEQUI C017 00/00/00

BROWN, MICHAEL			
05/10/07 FINES COSTS FEES PER DRFT ORD			\$ 680
BROWN, MICHAEL			
05/10/07 PAYMENT RECEIVED - BOND DEDUCT	00/00/00		
FINES TO BE TAKEN OUT OF DEFENDANT BOND			
BROWN, MICHAEL			
05/10/07 DEF ADVISED OF RIGHT TO APPEAL	00/00/00		
BROWN, MICHAEL			
05/10/07 CHANGE PRIORITY STATUS	M	00/00/00	
BROWN, MICHAEL			
07/16/07 PAYMENT RECEIVED - BOND DEDUCT	00/00/00		\$ 680
07/16/07 CBR PROCSED FRWD ACCT DEP	00/00/00		

I hereby certify that the foregoing has been entered of record on the above captioned case.
Date 02/05/08

Dorothy Brown
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT OF COOK COUNTY

T.E.D.

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)
POLICE OFFICER WILLIAM J. COZZI,) No. 06 PB 2604
STAR No. 4129, DEPARTMENT OF POLICE,)
CITY OF CHICAGO,)
)
RESPONDENT) (CR No. 307992)

FINDINGS

On April 03, 2006, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer William J. Cozzi, Star No. 4129 (hereinafter sometimes referred to as "Respondent"), seeking his discharge for violating the following Rules of Conduct:

- Rule 1: Violation of any law or ordinance.
- Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 6: Disobedience of an order or directive, whether written or oral.
- Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 14: Making a false report, written or oral.

The Police Board caused a hearing on these charges against Police Officer William J. Cozzi to be had before Thomas E. Johnson, Hearing Officer of the Police Board, on July 10 and August 17, 2007.

Following the hearing, the members of the Police Board read and reviewed the certified transcription of the hearing and viewed the video-recording of the hearing. Thomas E. Johnson,

Police Board Case No. 06 PB 2604
Police Officer William J. Cozzi
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Hearing Officer, made an oral report to and conferred with the Police Board before it rendered a decision.

The Police Board of the City of Chicago, as a result of its hearing of the charges, finds and determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.

2. The charges were filed in writing and a Notice, stating the time, date, and place, when and where a hearing of the charges was to be held, together with a copy of the original charges, was served upon the Respondent more than five (5) days prior to the hearing on the charges.

3. The Respondent appeared throughout the hearing and was represented by legal counsel.

4. The Respondent, Police Officer William J. Cozzi, Star No. 4129, charged herein, is **guilty** of violating, to wit:

Rule 1: Violation of any law or ordinance.

in that:

Count I: On or about August 2, 2005, at or near Norwegian American Hospital at 1044 North Francisco Avenue, Chicago, he committed the offense of Aggravated Battery in that he, intentionally or knowingly without legal justification, caused bodily harm to Randle Miles by striking Miles about the head and/or body with a "blackjack" and/or "flat sap" and/or bludgeon, in violation of 720 ILCS 5/12-4(b) (1).

Count II: On or about August 2, 2005, at or near Norwegian American Hospital at 1044 North Francisco Avenue, Chicago, he committed the offense of Aggravated Battery in that he, intentionally or knowingly without legal justification, caused bodily harm to Randle Miles by striking Miles about

Police Board Case No. 06 PB 2604
Police Officer William J. Cozzi
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the head and/or body while Miles was on or about a public way, public property, or public place of accomodation, in violation of 720 ILCS 5/12-4(b)(8).

Count III: On or about August 2, 2005, at or near Norwegian American Hospital at 1044 North Francisco Avenue, Chicago, he committed the offense of Battery in that he, intentionally or knowingly without legal justification, caused bodily harm to Randle Miles by striking Miles about the head and/or body, in violation of 720 ILCS 5/12-3(a)(1).

Count IV: On or about August 2, 2005, at or near Norwegian American Hospital at 1044 North Francisco Avenue, Chicago, he committed the offense of Battery in that he, intentionally or knowingly without legal justification, made physical contact of an insulting or provoking nature with Randle Miles by striking Miles about the head and/or body, in violation of 720 ILCS 5/12-3(a)(2).

5. The Respondent, Police Officer William J. Cozzi, Star No. 4129, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

in that:

Count I: On or about August 2, 2005, at or near Norwegian American Hospital at 1044 North Francisco Avenue, Chicago, he struck Randle Miles about the head and/or body with a "blackjack" and/or "flat sap" and/or bludgeon.

Count II: On or about August 2, 2005, at or near Norwegian American Hospital at 1044 North Francisco Avenue, Chicago, while on duty, he used and/or was in possession of a weapon that is not prescribed by the Chicago Police Department.

Count III: On or about August 2, 2005, he generated one or more reports containing false information concerning his arrest of Randle Miles.

6. The Respondent, Police Officer William J. Cozzi, Star No. 4129, charged herein, is **guilty** of violating, to wit:

Police Board Case No. 06 PB 2604
Police Officer William J. Cozzi
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Rule 6: Disobedience of an order or directive, whether written or oral.

in that:

On or about August 2, 2005, at or near Norwegian American Hospital at 1044 North Francisco Avenue, Chicago, while on duty, he used and/or was in possession of a weapon that is not prescribed by the Chicago Police Department, in violation of General Order 98-10-03, paragraph II(G) and III(C).

7. The Respondent, Police Officer William J. Cozzi, Star No. 4129, charged herein, is **guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

in that:

On or about August 2, 2005, at or near Norwegian American Hospital at 1044 North Francisco Avenue, Chicago, he struck Randle Miles about the head and/or body with a "blackjack" and/or "flat sap" and/or bludgeon.

8. The Respondent, Police Officer William J. Cozzi, Star No. 4129, charged herein, is **guilty** of violating, to wit:

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

in that:

On or about August 2, 2005, at or near Norwegian American Hospital at 1044 North Francisco Avenue, Chicago, he struck Randle Miles about the head and/or body with a "blackjack" and/or "flat sap" and/or bludgeon.

9. The Respondent, Police Officer William J. Cozzi, Star No. 4129, charged herein, is **guilty** of violating, to wit:

Rule 14: Making a false report, written or oral.

Police Board Case No. 06 PB 2604
Police Officer William J. Cozzi
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in that:

On or about August 2, 2005, he generated one or more reports containing false information concerning his arrest of Randle Miles.

10. The Respondent's complimentary history includes thirty-two Honorable Mentions, seven Complimentary Letters, and other awards, and the Respondent's disciplinary history contains no sustained complaints.

By reason of the findings of fact and guilt herein, and taking into account the Respondent's complimentary and disciplinary histories, cause exists for the suspension of the Respondent, Police Officer William J. Cozzi, Star No. 4129, from his position as a police officer with the Department of Police, and from the services of the City of Chicago, for a period of two (2) years, from April 04, 2006, to and including April 03, 2008.

Respectfully submitted,



THOMAS E. JOHNSON
Hearing Officer

Police Board Case No. 06 PB 2604
Police Officer William J. Cozzi
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DECISION

The Police Board of the City of Chicago, having read and reviewed the certified transcription of the hearing, having viewed the video-recording of the hearing, having received the oral report of the Hearing Officer, Thomas E. Johnson, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts all findings herein; and, in reaching its decision as to the penalty imposed, the Board has taken into account not only the facts of this case but also the Respondent's complimentary and disciplinary histories, copies of which are attached hereto as Exhibit A; and

IT IS HEREBY ORDERED that the Respondent, Police Officer William J. Cozzi, Star No. 4129, as a result of having been found **guilty** of charges in Police Board Case No. 06 PB 2604, be and hereby is **suspended** from his position as a police officer, and from the services of the City of Chicago, for a period from 04 April 2006 to and including 03 April 2008 (two years).

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 18th DAY OF OCTOBER, 2007.

Patricia C. Bodde
John J. Brancato
John J. Coughlin
John J. Flynn
Julia J. Gaffney
John J. Kelly
John J. Miller

Attested by:

Mark A. Cappone
Executive Director
Police Board

Police Board Case No. 06 PB 2604

Police Officer William J. Cozzi

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DISSENT

The following members of the Police Board hereby dissent from the decision of the majority of the Board.

The undersigned voted to order that the Respondent be discharged from his position as a police officer.

Kenneth J. Carey
Scott Dawn

RECEIVED A COPY OF

THE FOREGOING COMMUNICATION

THIS 1st DAY OF November, 2007.

Dana D. Stark
INTERIM SUPERINTENDENT OF POLICE

Westlaw.

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NewsRoom

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 2008 WLNR 3388861

Chicago Sun Times (IL)
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January 22, 2008

Section: News

Taped beating a campaign issue
 Candidate says opponent backed reducing the charge, but she denies it

Rosalind Rossi

Two top prosecutors vying to be the next Cook County state's attorney ripped into each other Monday over a decision to drop felony charges against a Chicago Police officer captured on tape pummeling a man shackled to a wheelchair.

Chief Deputy State's Attorney Anita Alvarez said she never supported bargaining the case down to misdemeanor battery during a meeting with State's Attorney Dick Devine that included one of her opponents for Devine's job, First Assistant Robert Milan.

"As I remember it, I said I didn't agree," Alvarez said. "It was under Mr. Milan's advisement that this would be a good disposition of the case. . . .

"I never advised the state's attorney to reduce this from a felony. This is a perfect example of why I am running for state's attorney," Alvarez said. "Sound judgment won't become overruled when I am state's attorney."

Alvarez said she was "outraged" when she first saw the 2005 beating in a video that was obtained by the Chicago Sun-Times under a Freedom of Information Act request and posted Monday on the newspaper's Web site.

Milan, whom Devine endorsed in the Democratic primary, insisted Alvarez "absolutely approved" of the deal, which was recommended by prosecutors on the case.

Her claims to the contrary are "nothing but sour grapes, because ever since Dick Devine endorsed me, these are the types of things she's doing," Milan said.

Considering the facts, Milan said, a plea to misdemeanor battery with 18 months probation and counseling was appropriate. But, he said, Officer William Cozzi should be fired for the attack on Randle Miles, now 62, at Norwegian American Hospital.

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Instead, the Police Board, which decides police discipline, gave Cozzi a two-year unpaid suspension. The Police Department has appealed, seeking termination.

Authorities have said Miles was intoxicated, verbally abusive and waiting in a wheelchair to be treated for a shoulder stab wound when police were called.

During the arrest, Cozzi handcuffed Miles to the wheelchair, and when Miles resisted, Cozzi retrieved leg shackles from his police car, prosecutors said previously.

The tape shows Cozzi shackling Miles' legs to the wheelchair and striking him about 10 times. Prosecutors have said Cozzi also used a small nightstick on Miles.

Milan called Cozzi's actions "despicable" but said Cozzi had no disciplinary record, earned 32 honorable mentions and served honorably in the Air Force.

Miles "was so out of it, he didn't even remember it happening," Milan said. Miles agreed to drop felony official misconduct charges against Cozzi, he said.

Ald. Tom Allen [38th] was among several Democratic candidates Monday to say they would have handled things differently. Allen said the case should have gone to trial as originally charged.

"I think that the justice system should determine the outcome of this case, rather than someone in the state's attorney's office reducing the offense," Allen said.

Cook County Commissioner Larry Suffredin said any misdemeanor deal should have included Cozzi's agreement to leave the Police Department, and "If [Cozzi] chose not to take the deal, then you try the felony case."

Ald. Howard Brookins [21st] questioned how an officer accused of "beating a 62-year-old defenseless person, handcuffed to a wheelchair" could plead to only a misdemeanor.

"When I'm state's attorney," Brookins said, "nobody will be treated above or below the law."

----- INDEX REFERENCES -----

REGION: (USA (1US73); Americas (1AM92); Illinois (1IL01); North America (1NO39))

Language: EN

OTHER INDEXING: (AIR FORCE; AMERICAN HOSPITAL; DEMOCRATIC; POLICE BOARD; POLICE DEPARTMENT) (Allen; Alvarez; Anita Alvarez; Brookins; Chief Deputy State; Cozzi; Devine; Dick Devine; Howard Brookins; Larry Suffredin; Tom Allen; William Cozzi)

EDITION: Final

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Word Count: 677
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1/21/08 Chi. Sun-Times 5
2008 WLNR 3388670Chicago Sun Times (IL)
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January 21, 2008

Section: News

Another black eye

Cop caught on tape beating man in wheelchair could be back on the beat in April.
Now, Chicago's new top cop says he will take a 'hard, close look' at the case

Frank Main

New Chicago Police Supt. Jody Weis will take a "hard, close look" at taking further action against an officer suspended after a surveillance camera captured him beating a man handcuffed and shackled to a wheelchair, a police spokeswoman says.

Officer **William J. Cozzi** is one of three officers who pleaded guilty last year to misdemeanor battery for beating people in 2005. Surveillance cameras recorded each of the separate incidents.

Cozzi, 50, is scheduled to return to work in April after completing a suspension.

The matter is "a concern" for Weis, an FBI veteran who takes office as superintendent Feb. 1 and has vowed to crack down on police misconduct, police spokeswoman Monique Bond said.

"This is a case he will be taking a hard, close look at for further action," Bond said. "Supt. Weis has requested a briefing and will review the matter."

The video of Cozzi beating a wheelchair-bound hospital patient was entered into evidence at his disciplinary hearing before the Chicago Police Board in July and August.

The Chicago Sun-Times obtained a copy of the video through a Freedom of Information request.

The soundless video shows Randle Miles, now 62, sitting in a wheelchair in the lobby of the emergency room at Norwegian-American Hospital in the Humboldt Park neighborhood on the Northwest Side.

Miles was in the hospital for a stab wound to the shoulder. He apparently was in-

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toxicated, uncooperative with the hospital's staff and verbally abusive to officers when they were called, authorities say.

A 42-second snippet of video shows Cozzi, who was on duty, shackling Miles' legs to the wheelchair, then striking Miles about 10 times -- finishing with a round-house blow.

Cook County prosecutors have said Cozzi struck Miles with a "blackjack" -- a small baton.

Miles required stitches, said his attorney, Timothy Whiting, whose law firm obtained a \$125,000 settlement from the city. "He is harmless," Whiting said of Miles.

Cozzi couldn't be reached for comment, but his attorney, William Fahy, said his client is "extremely remorseful of his conduct."

"The Police Board heard all the evidence and found him guilty of his conduct," Fahy said. "They considered his many, many years as a police officer. Based on the evidence, they made the right call. He deserves a second chance."

Cozzi was sentenced to 18 months' probation in his criminal case. He also was found guilty of violating Police Department rules. But the Police Board, which considers disciplinary action against cops, rejected the department's recommendation to fire Cozzi. Instead, Cozzi was given a two-year, unpaid suspension.

The board voted 6-2 that Cozzi deserved a suspension because he earned 32 honorable mentions and other awards during his 15-year career and didn't have a disciplinary history. Board President Demetrius Carney was one of the dissenting votes. He didn't return a call seeking comment.

In November, the Police Department filed an appeal in court, seeking to have Cozzi fired.

Disciplinary proceedings are pending against two other officers, Larry Guy Jr. and Alexandra Martinez, in separate 2005 beatings. Both pleaded guilty to misdemeanor battery. Neither case has been ruled on by the Police Board.

Guy, 40, was charged with punching a handcuffed shoplifting suspect at a Target near California and Addison. The city paid Armando Lucas \$92,500 to settle a lawsuit against Guy, records show.

Martinez, 39, was accused of slamming a 14-year-old girl's head against a wall and punching her in the face. The girl was a shoplifting suspect in a JC Penney at 76th and Cicero.

----- INDEX REFERENCES -----

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COMPANY: JC PENNEY CO INC

NEWS SUBJECT: (Legal (1LE33))

REGION: (USA (1US73); Americas (1AM92); Illinois (1IL01); North America (1NO39))

Language: EN

OTHER INDEXING: (AMERICAN HOSPITAL; BOARD; CHICAGO POLICE BOARD; FBI; JC PENNEY; NEW CHICAGO POLICE SUPT; POLICE BOARD; POLICE DEPARTMENT; SUPT) (Alexandra Martinez; Bond; Cozzi; Demetrius Carney; Fahy; Guy; Jody Weis; Larry Guy Jr.; Martinez; Monique Bond; Timothy Whiting; Weis; Whiting; William Fahy; William J. Cozzi)

EDITION: Final

Word Count: 712

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4/4/08 Chicago Tribune (KRTBN) (Pg. Unavail. Online)
 2008 WLNR 6367117

Chicago Tribune (KRT)
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April 4, 2008

Beating in wheelchair by Chicago cop leads to federal indictment
 Angela Rozas
 Chicago Tribune

Apr. 4--A Chicago police officer was indicted this week on a federal charge of violating the civil rights of a man beaten while handcuffed to a wheelchair, an incident that was caught on videotape.

A federal grand jury indicted **William Cozzi**, 50, on one count of violating the man's civil rights during an arrest at a Chicago hospital in August 2005, according to the U.S. attorney's office. Cozzi will be arraigned at a later date.

"Every citizen, regardless of being in police custody, has a constitutional right to be free from the use of unreasonable force by law enforcement officers," U.S. Atty. Patrick Fitzgerald said in a statement.

Cozzi pleaded guilty last year to misdemeanor battery in Cook County Circuit Court for the beating and was given 18 months' probation and ordered to undergo anger management classes.

Cozzi, who worked in the Police Department's Grand-Central District at the time of the beating, was suspended from the department for two years. The department filed an appeal in November in Cook County court to get Cozzi fired.

Supt. Jody Weis said in January that he was looking into the case to determine if more needed to be done. On Thursday, a spokeswoman for the department said Weis referred the case to the FBI and that Cozzi remains on unpaid leave from the department and "will not return to duty."

The indictment stems from an incident involving Randle Miles, who was being treated for stab wounds at Norwegian American Hospital when he resisted being placed in the wheelchair, according to reports.

Cozzi, who had been dispatched to the hospital to speak with Miles, became enraged by his behavior, Cook County prosecutors said.

Cozzi placed the man in handcuffs and said, "Don't move, or I'll break your [expletive] wrists," prosecutors said after Cozzi's arrest. Cozzi hit the man 10

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times with a small club in the face and torso, prosecutors said.

Miles sued and eventually won a \$125,000 settlement from the city.

arozas@tribune.com

----- INDEX REFERENCES -----

NEWS SUBJECT: (Legal (1LE33); Judicial (1JU36); Social Issues (1SO05); Police (1PO98); Government Litigation (1GO18); Economics & Trade (1EC26))

REGION: (USA (1US73); Americas (1AM92); Illinois (1IL01); North America (1NO39))

Language: EN

OTHER INDEXING: (AMERICAN HOSPITAL; COOK COUNTY; COOK COUNTY CIRCUIT COURT; FBI; POLICE DEPARTMENT) (Cozzi; Jody Weis; Patrick Fitzgerald; Weis; William Cozzi)

Word Count: 393

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Case 1:08-cr-00276 Document 1 Filed 04/02/2008 Page 1 of 1 *05*
FILED

APR - 2 2008

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

UNITED STATES OF AMERICA,
)
v.
)
WILLIAM COZZI,
)
)

No. **08CR 276**

Violation: Title 18, United States Code,
Section 242. **JUDGE MANNING**

MAGISTRATE JUDGE COLE

The SPECIAL MARCH 2007 GRAND JURY charges:

On or about August 2, 2005, at Chicago, in the Northern District of Illinois, Eastern Division,

WILLIAM COZZI,

defendant herein, an Officer of the Chicago Police Department, while acting under color of law, used a dangerous weapon to strike Victim A repeatedly, while Victim A was handcuffed and shackled in a wheelchair at Norwegian American Hospital, resulting in bodily injury to Victim A, thereby willfully depriving Victim A of a right secured and protected by the Constitution and laws of the United States, that is, the right to be free from the use of unreasonable force by a person acting under color of law;

In violation of Title 18, United States Code, Section 242.

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY

Westlaw.

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1/23/08 Chi. Sun-Times 6
 2008 WLNR 3388984

Chicago Sun Times (IL)
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January 23, 2008

Section: News

Not sure 'if I was going to live or die'
 Shackled to wheelchair, hit by officer

Frank Main

First, Randle Miles was beaten by a Chicago Police officer while handcuffed and shackled to a wheelchair.

Then Miles, 60 at the time, was charged with resisting arrest, assault and battery, his lawyer said.

But a hospital video of the 2005 incident shows Miles did not resist while Officer William Cozzi hit him about 10 times.

"I was beaten, then I was charged with a crime," Miles said in an interview Tuesday. "I don't understand it."

His attorney, Timothy Whiting, called it "a complete miscarriage of justice."

Whiting said Miles went to court on the criminal charges, but Cozzi and hospital guards did not appear. Prosecutors tried to re-schedule the hearing but a judge dismissed the case, Whiting said.

Cozzi, 50, pleaded guilty to misdemeanor battery in May 2007 and got 18 months' probation.

COP BACK ON JOB IN APRIL

The Sun-Times first reported Monday that incoming police Supt. Jody Weis is unhappy that Cozzi was not fired, calling the officer's actions "deplorable."

The department sought to fire Cozzi. But the Chicago Police Board, which considers discipline against cops, gave him an unpaid suspension -- even though it found him guilty of beating Miles and filing a false police report.

The board said Cozzi deserved to keep his job because he did not have a disciplin-

ary history and won numerous awards. He is due to return to work in April.

Weis said he will "review the facts of the case before taking further action" against Cozzi. Cozzi's attorney says his client is remorseful and deserves a second chance.

The beating occurred after Miles was taken to Norwegian American Hospital with a stab wound. He gave a nurse an insurance card and grew agitated when she quizzed him about his personal information, Whiting said.

Miles asked for a doctor, but the nurse told Miles to quiet down, then called hospital guards, Whiting said. Miles continued to complain, and Chicago Police were called.

Miles, who had drank a pint of gin, was passive when Cozzi shackled him to the wheelchair and struck him repeatedly as guards watched, Whiting said.

Miles said he was in a fog of alcohol and medication and can't remember details of the beating, but recalls "a man beating on me and not knowing if I was going to live or die."

The Sun-Times was the first to publicly post the video on the Internet, at sun-times.com. The newspaper obtained a copy under the Freedom of Information Act.

----- INDEX REFERENCES -----

REGION: (USA (1US73); Americas (1AM92); Illinois (1IL01); North America (1NO39))

Language: EN

OTHER INDEXING: (AMERICAN HOSPITAL; CHICAGO POLICE; CHICAGO POLICE BOARD; COP) (Cozzi; Jody Weis; Miles; Prosecutors; Randle; Timothy Whiting; Weis; Whiting; William Cozzi)

EDITION: Final

Word Count: 476

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